

STATE OF MISSISSIPPI
LOCAL GOVERNMENTS AND RURAL WATER SYSTEMS IMPROVEMENTS BOARD
Title 33: Public Health - Local Governments & Rural Water Systems Improvements Board
Part 15: Drinking Water Systems Improvements Revolving Loan Fund Program Regulations

STATE OF MISSISSIPPI
DRINKING WATER SYSTEMS IMPROVEMENTS
REVOLVING LOAN FUND PROGRAM
BIL EMERGING CONTAMINANTS IN DRINKING WATER

INTENDED USE PLAN FOR FFY-2022

Approved by the Board
7/28/2023



MISSISSIPPI STATE DEPARTMENT OF HEALTH

LOCAL GOVERNMENTS AND RURAL WATER SYSTEMS
IMPROVEMENTS BOARD
P. O. BOX 1700 SUITE U-232
JACKSON, MISSISSIPPI 39215-1700

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I. INTRODUCTION

A. State of Mississippi's Drinking Water State Revolving Loan Fund

The Safe Drinking Water Act Amendments of 1996 (SDWA) established the national Drinking Water State Revolving Fund (DWSRF) Program. The Bipartisan Infrastructure Law (BIL), also known as the Infrastructure Investment and Jobs Act (IIJA) of 2021, (P.L. 117-8) additionally amended Section 1452 of the SDWA and appropriated funds for emerging contaminants in drinking water with a focus on perfluoroalkyl and polyfluoroalkyl substances (PFAS). This Intended Use Plan identifies the State of Mississippi's proposed use of Federal Fiscal Year (FFY) 2022 DWSRF Emerging Contaminants allotment of \$8,133,000.

The DWSRF program allows the Environmental Protection Agency (EPA) to make capitalization (Cap) grants to states to, in turn, provide low-cost loans to public water systems to help achieve or maintain compliance with SDWA requirements. Accordingly, the State Legislature (through Section 41-3-16, MS Code of 1972 Annotated) created what is now called the Drinking Water Systems Improvements Revolving Loan Fund (DWSIRLF) Program, to receive the federal DWSRF capitalization grants from EPA, and to provide low-cost loans to the state's public water systems to finance needed infrastructure improvements. This legislation also allows the DWSIRLF, subject to the authority of State Law, to make loans that may utilize additional subsidization beyond standard DWSIRLF loans as well as setting appropriate criteria to determine eligible recipients.

That same legislation created the "Local Governments and Rural Water Systems Improvements Board" (Board), to oversee the administration of the DWSIRLF Program. The Mississippi State Department of Health (Department), as the state's drinking water primacy agency, supplies the staff and facilities necessary to administer the program. The Board is composed of the following nine (9) members: the State Health Officer, who shall serve as chairman of the Board; the Executive Director of the Mississippi Development Authority; the Executive Director of the Department of Environmental Quality; the Executive Director of the Department of Finance and Administration; the Executive Director of the Mississippi Association of Supervisors; the Executive Director of the Mississippi Municipal League; the Executive Director of the American Council of Engineering Companies; the State Director of the United States Department of Agriculture, Rural Development; and a manager of a rural water system. Each agency director may appoint a designee to serve in his or her place on the Board. The Governor appoints the rural water system manager. In the creation of the Program, it was the intent of the Legislature that the Board endeavor to ensure that the costs of administering the DWSIRLF Program are as low as possible in order to provide the water consumers of Mississippi with safe drinking water at affordable prices.

As a condition of receiving the DWSRF Cap grants, the SDWA requires that each state annually prepare an Intended Use Plan (IUP) designed to outline how a state will utilize DWSRF funds to assist in protecting public health.

The DWSIRLF BIL Emerging Contaminant (EC) Fund consists of federal funds. Federal funds are provided to the states in the form of awarded Cap grants. Each state's allotment of those grants is based on EPA's Needs Survey that is performed every four years. No State matching funds are required to be deposited into this Fund.

B. Program Overview

The basic framework under which the DWSIRLF Program operates is established by two documents. The first document is the Drinking Water State Revolving Fund Loan Program Operating Agreement (Operating Agreement) between the Mississippi State Department of Health and the Environmental Protection Agency, Region IV. The current Operating Agreement was agreed to by both parties and approved on March 21, 2022. The Operating Agreement establishes the basic framework of the DWSIRLF that is not expected to change from year-to-year. The second document is the IUP which describes how the State of Mississippi will use the funding received from the EPA Cap grant which is received each year. This draft BIL EC IUP for FFY-2024 (dated June 29, 2023) will accompany the Program's application to EPA for the FFY-2022 EC Cap Grant.

The amount of the FFY-2022 Cap Grant from EPA for Mississippi for BIL EC appropriation is for \$8,133,000. The Program intends to apply for set-asides as described in Section V. These funds must be used in the period of July 2023 through June 2026. As a condition of the FFY-2022 Cap Grant the program agrees to comply with DWSRF regulations, the general grant regulations at 40 CFR part 200, and specific conditions of the capitalization grant and to enter data into SRF Data System no less than quarterly. The FFY-2024 IUP will show in detail the goals (overall and five-year), the structure, and the financial status of the Program; the role of the set-aside activities within the state; and most importantly, the distribution of funds towards public water system improvements projects and the criteria used to determine their ranking within the priority system. Those desiring to receive a copy of this document may contact Jonathan Diaz, Program Support Specialist, at (601) 576-7518.

C. Public Input, Review, and Comment Procedures

To ensure that the public has an ample opportunity to review and comment upon the IUP, the Department and the Board follows the requirements of the "Mississippi Administrative Procedures Law" prior to final submission of the IUP to EPA. A public notice period of at least twenty-five (25) days allows for review and comment before an oral proceeding. After adoption by the Board, a second filing with the Secretary of State's Office occurs; if no additional comments are received the IUP becomes law 30 days after the second filing.

Public notice will be given in *The Clarion Ledger*, a newspaper of statewide circulation, for written and oral comments on this IUP. ***An oral proceeding is scheduled for 9:00 a.m. on July 28, 2023.*** A transcript of the oral proceeding, recording any comments and recommended solutions, will be submitted to the EPA along with the Final IUP. Those desiring to receive a copy of the oral proceeding transcript should contact Jonathan Diaz, Program Support Specialist, at (601) 576-7518. A copy of the “Mississippi Administrative Procedures Law” may be obtained from the Mississippi Secretary of State’s Office and can also be found on the Mississippi State Department of Health’s website at www.healthhys.com/dwsrf.

II. Goals of Mississippi’s Drinking Water Systems Improvements Revolving Loan Fund (DWSIRLF) Program – EC Fund

The EC Fund was created by the BIL to provide funding through the DWSIRLF Program for a five-year duration. The following are the Overall and Five-Year Goals for the EC Fund:

A. Overall Goal:

Improve public health by providing funding and technical support to public water systems in Mississippi to DWSIRLF-eligible projects to address emerging contaminants in drinking water with a focus on PFAS. Emerging contaminants are defined as those listed on EPA’s Contaminant Candidate Lists (CCL1- CCL5).

B. Five-Year Goals

1. Identify issues with PFAS constituents in drinking water in water systems serving a population less than 3,300 through financial and technical support for water system sampling of the same.
2. Reduce the exposure of the public in Mississippi PFAS and other emerging contaminants in drinking water through providing technical and financial assistance to water systems.

III. Structure of the Mississippi DWSIRLF

The Mississippi DWSIRLF BIL EC is structured around one fund. The portion of the fund designated for projects will consist of 100% principal forgiveness. The funds are broken down further into designated accounts, each having a specific function.

A. DWSIRLF BIL EC Loan/Operations Fund

Monies in the Fund support a majority of the functions of the DWSIRLF EC. These functions include program administration, set-aside operations, and most importantly provide disbursements to public water systems for eligible projects. The DWSIRLF EC is a reimbursement program, meaning that after the loan is awarded, costs associated with planning, designing, and constructing the project are reimbursed to the recipient. Cap grants from EPA will be deposited into this Fund's account.

1. Types of Eligible Projects:

For a project to be eligible for funding under the BIL EC fund, projects must be: 1.) otherwise DWSRF program eligible and 2.) the primary purpose must be to address emerging contaminants in drinking water with a focus on PFAS. Projects that address any contaminant listed on any of EPA's Contaminant Candidate Lists (CCL1- CCL5) are eligible.

2. Set-aside Accounts:

The set-aside accounts reside under the umbrella of the Fund and are distinctly designated by reporting categories. A listing of the set-asides taken by Mississippi includes the following as part of the FFY-2024 IUP:

- a. Administrative Set-aside: Provides financial support to administer the EC loan Program and other non-project-related activities.
- b. Local Assistance and Other State Programs: Provides funding for PFAS sampling of water systems with population less than 3,300. These water systems are not required to sample for UCMR-5 unregulated contaminants in 2023.

IV. Financial Status of the DWSIRLF

This section outlines all sources of funding available to the DWSIRLF EC Program and indicates intended uses. This section also describes the financial assistance terms available through the Program.

A. Source and Use of Funds

Using the FFY-2022 EPA BIL EC Capitalization Grant allotment for Mississippi of \$8,133,000 to provide for both loans and set-aside activities.

The FFY-2022 "Set-aside" use for the BIL EC Cap grant are outlined in Section V of this IUP. Necessary work plans showing utilization of these funds are found in the appendices of this IUP.

B. Financial Planning Process

In accordance with the Board's desire to maintain a financially sound DWSIRLF loan Fund in perpetuity, while at the same time meeting a substantial portion of the drinking water needs pertaining to projects that address emerging contaminants in drinking water in the state within a reasonable period of time, the following financial decisions were made regarding the Fund:

1. Application for the Full Amount of the BIL EC Cap Grant

The Board intends that the MSDH apply for the full amount of the State EC Cap grant allotment under the federal DWSRF, including the set-asides described in Section V below. No State match is required for the FFY-2022 EC Cap grant.

2. Interest Rate Determination

The EC Cap Grant project portion requires 100% principal forgiveness to loan recipients. There may be a small amount of interest accrued before principal forgiveness is applied. It is the Board's decision to offer 0% interest on DWSIRLF loans from the BIL EC fund.

C. Financial Terms of Loans

The following terms will be used for the purpose of making loans to the public water systems within the State of Mississippi.

1. Funding Limit

Under state law, the Board has the discretion to set the maximum amount for DWSIRLF loans. For FFY-2024 IUP, the Board has set a maximum loan amount of \$5,000,000 per borrower. The Board may allow (on a case-by-case basis if requested by the borrower and the need has been justified) the maximum loan limit to be exceeded by a vote of the Board. Furthermore, during FFY-2022, no more than one loan per borrower will be allowed. At the end of the fiscal year, if funds are available, systems previously receiving an award during FFY-2022 may obtain an additional award(s) or an increase to a previous FFY-2022 award, if no other eligible systems are evident.

2. Interest Rate

Terms for BIL EC loans (There may be a small amount of interest accrued before 100% principal forgiveness is applied) will be 0% interest rate, with a repayment period of five years for all projects.

Interest will accrue based on the current loan agreement in conjunction with the DWSIRLF Regulations.

3. FFY-2022 BIL EC Cap Grant Special Provisions

The FFY-2022 BIL EC Cap Grant requires 100% subsidization of the BIL EC Cap Grant amount available for projects. This subsidization is expected to be in the form of “principal forgiveness”, “negative interest rates”, or a combination of the two.

4. Other Related Issues

- a. *Type of Assistance Provided:* The assistance to be provided under the DWSIRLF Program will be loans to public, tax-exempt entities which are authorized under state law to collect, treat, store, and distribute piped water for human consumption; able to enter into a DWSIRLF loan agreement; and have the ability to repay the DWSIRLF loan. With the funds provided through the FFY-2022 BIL EC Cap Grant, the DWSIRLF program will be able to make loans that will have an amount of “principal forgiveness”. The amount of principal forgiveness for EC projects is 100%. In all cases, loans will be DWSIRLF-eligible projects to address ECs in drinking water, with a focus on PFAS.
- b. *Project Costs Eligibility:* Eligible/allowable project costs will include those costs that are eligible, reasonable, necessary, and allocable to the project, within the established project scope and budget, in conformance with the DWSIRLF regulations and approved by MSDH.
- c. *Loan Participation:* DWSIRLF loan participation will be at 100% of eligible project costs, less any funding made available from other agencies for these same eligible project costs.
- d. *Pre-Award Costs:* Project costs incurred prior to loan award will be DWSIRLF loan eligible provided:
 - i. The debt is for work that has begun after the DWSIRLF loan award date.
 - ii. The project is in compliance with all applicable DWSIRLF Program regulations and obtains MSDH approval of all applicable documents prior to award of the DWSIRLF loan.
 - iii. The prospective loan recipient agrees that by incurring costs prior to loan award, it proceeds at its own risk and relieves the Board, the Department, and the Department’s staff of all responsibility and liability should such costs later be determined unallowable for any reason or should such funding not become available for any reason.
 - iv. The prospective loan recipient agrees that by incurring costs prior to loan award, no future commitment of funding a refinanced project is provided.
- e. *Priority List:* The EC Priority List for the FFY-2024 IUP expires on January 2, 2024. Projects listed in the FFY-2024 EC Priority List that do not receive funding by this date will not be funded under the FFY-2024 EC IUP and will

be subject to the requirements of subsequent IUPs and Priority Lists. Detailed information for the FFY-2024 EC projects is shown in Section VIII of this IUP. To facilitate the use of federally appropriated funds from the FFY-2022 BIL EC Cap Grant, the priority list may be adjusted to allow funds to be disbursed according to the federal requirements.

V. Set-Aside Activities

The SDWA allows each state to set-aside up to 31 percent of its federal Cap grant to support non-project-related drinking water programs which includes administration of the loan program, technical assistance to public water systems, state program management, and other special activities. The FFY-2022 EC Capitalization Grant amount of \$8,133,000, the state plans to use \$1,609,723 of the FFY-2022 EC Capitalization grant to support set-aside activities, further defined in the following Sections A and B. These non-project-related programs will be operated by MSDH within the agency itself or through contracts with other agencies or organizations. Contracts between the MSDH and other agencies or organizations will be approved by the Board. Work plans showing how the set-asides funds will be expended are included as appendices within this EC IUP; additionally, progress reports will be included in the Annual Report. The state has elected not to take set-asides for Small Systems Technical Assistance and State Program Management from the FFY-2022 EC Cap Grant but reserves the right to make revisions to utilize additional funds from this set-aside.

A. Administration

The SDWA-DWSRF amendments in the 2017 Water Infrastructure Improvements for the Nation Act (Pub. L. 114-332) (2017 WIIN Act – EPA memorandum dated June 6, 2017) states that the Administrative Set-Asides that can be taken the greatest of: \$400,000, 1/5 percent of the current valuation of the fund, or an amount equal to 4 percent of all grant awards to the fund for the fiscal year. The EPA Combined SRF BIL Implementation Memo dated March 8, 2022, states that set-asides for the EC Cap Grant are consistent with the DWSRF regulations. The State plans to use the maximum allowable (4%) for "Administrative" purposes from the FFY-2022 EC Cap Grant.

The state will continue to exercise its right to reserve the administrative amounts from previous Cap Grants. Reserving previous years' 4% administrative set-aside can ensure that the Program will continue to operate with an adequate DWSIRLF staff for proper management of the Program.

B. Small System Technical Assistance

The state will use the Small Systems Technical Assistance (up to 2%) set-aside from the BIL EC FFY-2022 Cap Grant to provide funding for EC Test to ultra small systems serving a population of 300 or less. With approval by the Board,

the state intends to use this set-aside to fund a contract for providing professional services to water systems with a population of less than 300. This assistance will be available on a first-come, first-serve basis to water systems serving a population of 300 or less. More detail is provided in the State of Mississippi's Set-Aside Work Plan included as Appendix E to this IUP.

C. State Program Management

The state does not intend to use this set-aside from the FFY-2022 EC Cap grant, as authorized by Section 1452(g) (2) of the Safe Drinking Water Act of 1996 for State Program Management related to LCRR and LSLR. The program reserves the right to these funds in amended or future application to be used for Public Water System Supervision (PWSS) activities conducted under Section 1443(a) of the Act.

D. Local Assistance and Other State Programs

The state intends to use the first 10% of the 15% set-aside amount which is allowed from the FFY-2022 BIL EC Cap grant to provide funding for sampling for PFAS for water systems with population less than 1,000 but greater than 300 that are not currently required to sample for UCMR-5.

The state intends to use the remaining 5% of the 15% set-aside amount which is allowed from the FFY-2022 EC Cap grant to provide funding for sampling for PFAS for water systems with population less than 3,300 and greater than or equal to 1,000 that are not currently required to sample for UCMR-5.

VI. Priority System

The SDWA provides the state with the flexibility to determine how to best utilize the EC Cap grant. To meet the goals of public water systems in the State of Mississippi and this FFY-2024 EC IUP, those projects which meet the following will be given priority:

1. Are DWSIRLF-eligible and address the most serious risk to human health related to identifying and addressing emerging contaminants in drinking water, with a focus on PFAS.
2. Assist systems most in need, on a per household basis.
3. Prioritize addressing PFAS in drinking water over other eligible emerging contaminants.

A. Funding and Ranking Rationale

Projects will be placed on the fundable portion of the Priority List according to both priority ranking and readiness to proceed. The term "ready to proceed" means that all loan application requirements established in the Program regulations are met, and all documents

necessary for loan award are approved. If a project cannot reasonably be expected to meet the Priority System deadlines, then the project will not be placed on the current year's Priority List but will be placed on the Planning List. It is the Board's judgment with input from the DWSIRLF staff as to when a project is ready to proceed. Loans will be awarded to projects (within available funds) that are above the funding line on the current year's Priority List, that have met all Priority System deadlines and are ready to proceed. Additionally, when potential loan recipients are deciding on the needs for their public water supplies, they should ensure that all public health and state safe drinking water laws are followed.

1. Funding Lists and Bypass Procedure

Should any projects on the FFY-2024 EC Priority List (which are above the funding line) fail to comply with the deadlines in Section D, the project shall be bypassed, and the funds reserved for said project will be released. Released funds will first be made available to listed projects, to ensure that all projects above the funding line meeting priority system deadlines are funded. Any remaining funds will be made available to the highest-ranking project(s) shown below the funding line that is ready for loan award at the time funds become available. If no projects above the funding line are ready for loan award at the time funds become available, projects shown below the funding line will be funded on a first-come, first-served basis as they become ready for loan award and until the released funds are awarded. This same process will continue as each deadline passes and released funds become available.

2. Loan Decreases

Any funds recovered from loan decreases during the year will be used:

- a) first to fund bid overruns, if funds from the loan increase reserve are not sufficient to cover the bid overruns;
- b) then to ensure that all projects above the funding line meeting the priority system deadlines are funded (for at least the amount shown on the priority list); and
- c) then to fund other loans and/or increases on a first-come, first-served basis.

Any funds not obligated for these purposes may be made available for new loan awards ready to proceed on a first-come, first-served basis.

3. Subsidization from FFY-2022 EC Cap Grant

The FFY-2022 BIL EC Cap Grant mandates 100% of the projects part of the Grant be provided as subsidization to loan recipients. Based on the Grant of \$8,133,000 and set-aside amount of \$1,545,270, a minimum of \$6,587,730 in subsidization is required. The DWSIRLF's subsidization will be in the form of "Principal Forgiveness" (PF) to individual public water supply loan recipients, and which

received reimbursements with Federal EC Cap Grant funds during the lifetime of the project, from loan initiation through loan closeout. If the amount of PF which a project is eligible exceeds the amount of Federal EC Cap grant funds which it received, the amount of PF extended will be limited to the amount of Federal Cap grant funds used for reimbursement.

Subsidization may be used over a two-year period. Subsidization remaining from a previous year may be awarded to loans which are eligible for PF over a two-year period. Subsidization for FFY-2024 EC Priority List projects may be awarded to projects eligible for PF in FFY-2025 and FFY-2026.

Disadvantaged Community Program

a. DWSRF EC Capitalization Grant Funds

During FFY-2024, the following Principal Forgiveness (PF) methodology will be used to meet the requirements of the BIL of 2021 (P.L. 117-8) for providing subsidy to water systems for addressing emerging contaminants in drinking water. 100% principal forgiveness will be available for the project portion of the FFY-2022 EC Cap Grant to loan recipients. The FFY-2022 EC federal appropriation for the Program is \$8,133,000. The project portion of the FFY-2022 EC Cap Grant is \$6,587,730. The principal forgiveness (100%) available to eligible borrowers is \$6,587,730.

All BIL EC projects will receive 100% Principal Forgiveness.

PF will be extended to projects until all mandated subsidy funds are obligated. The amount of PF given will be assigned at loan award.

In the event that a LR declines their loan that includes PF, the released PF may be reallocated to other projects for the present fiscal year.

In all cases, the amount of PF which is awarded to a project may not exceed the amount of Federal Cap grant funds which the project was reimbursed during the construction of the project.

B. Priority System Categories

DWSRF EC Priority System

Project Categories applicable to the DWSRF Base/Supplemental IUP that have been eliminated from this EC IUP because they are not applicable are Categories I through XII. Projects for the EC Priority List will be ranked within Category XIII in priority order. For the remaining categories Adjustments are made as necessary to comply with the set-aside provisions of the Federal SDWA and as established by the Board [Section 1542(a) (2) of SDWA]. As stated previously, the order of Categories I - XIII is intended to give highest priority to those projects that address the most serious risks to human health and that address emerging contaminants in drinking water. Projects will be ranked as described in Section C.

All projects must meet the requirement of the EC Cap Grant appropriation; that they are 1.) otherwise DWSRF program eligible and 2.) the primary purpose must be to address emerging contaminants in drinking water with a focus on PFAS.

Category XIII – Other

This category includes projects that do not meet the criteria of any other listed category and have been determined EC loan eligible in accordance with the DWSIRLF program regulations.

C. Priority Ranking Criteria

The criteria for ranking projects within each category is intended to give priority to projects that: (1) benefit the most people per dollar expended; (2) assist systems most in need on a per household affordability basis as required by the SDWA; (3) encourage participation in short-term and long-term technical assistance programs; and (4) encourage certifying and providing support for a system’s Asset Management Plan. These considerations are addressed by the Priority Ranking Criteria in the following manner:

1. *Benefit/Cost*

Benefit/Cost points assigned to each project will be determined using the following formula:

$$\text{Benefit/Cost Points} = \frac{\text{Number of benefiting connections}}{\text{Total eligible cost of improvements (in \$1.0 millions)}}$$

The number of benefiting connections must be included in the facilities plan submitted by the applicant; be defined as the sum of individual connections **currently experiencing deficiencies that will be corrected by the improvement**; and include only existing residences, businesses, and public buildings. Applicants must furnish information (including hydraulic analysis, if necessary) to support their estimate of the number of benefiting connections. The total eligible cost is in millions of dollars (i.e., \$800,000 = \$0.8 M).

2. *Affordability Factor*

An affordability factor will be assigned to each project to reflect the relative needs of applicants on a per household basis. The Benefit/Cost points calculated in Section C.1. will be adjusted using the affordability factor in the following formula:

$$\text{Adjusted Benefit/Cost Points} = (\text{Affordability Factor}) \times (\text{Benefit/Cost Points})$$

The affordability factor used in the calculation is defined as the ratio of the “Median Household Income” (MHI) for the State of Mississippi (\$46,511) to the MHI for the affected community. The affordability factor used in the calculation will be no less than 1.0 and no greater than 1.5.

3. *Participation in Short-Term & Long-Term Assistance Programs*

The MSDH, with the Board’s approval, has contracted with Mississippi State University Extension Service to provide both short-term and long-term assistance to designated water systems in the state based on their scores on the latest Capacity

Assessment Form (CAF). This assistance is provided at no cost to the water systems.

Participation by the water systems in these assistance programs is voluntary; however, any water system that has participated in either of these assistance programs within the past two years will be eligible to receive additional priority points equal to 5% of their Adjusted Benefit/Cost Points. Water systems that have implemented all the recommendations made by Mississippi State University Extension Service will receive additional priority points equal to 5% of their Adjusted Benefit/Cost Points for a total of 10%. Documentation of participation in either of these assistance programs and implementation of the recommendations made by Mississippi State University Extension Service must be included in the facilities plan before additional priority points will be granted.

$$\text{Assistance Points} = \underline{\text{**}} \times (\text{Adjusted Benefit/Cost Points})$$

*** 5% if the water system participates in the assistance, or 10% if the water system participates in the assistance and implements all recommendations*

4. *Asset Management Plan*

Any water system certifying and providing support of their Asset Management Plan's implementation or maintenance to MSDH will be eligible to receive additional priority points equal to 10% of their Adjusted Benefit/Cost Points.

$$\text{Asset Management Plan} = 0.10 \times (\text{Adjusted Benefit/Cost Points})$$

7. *Ranking Within Each Category*

Within each category, projects will be ranked in order based on the total points assigned the project using the following formula:

$$\text{Total Priority Points} = \text{Adjusted Benefit/Cost Points} + \text{Affordability Points} + \text{Assistance Program Points} + \text{Asset Management Plan Points}$$

Projects receiving the most priority points will be given the highest ranking on the Priority List. In case of a tie in the number of priority points, projects with the lowest median household income will receive the highest ranking.

D. Priority System Deadlines

1. By January 2, 2024, a complete DWSIRLF facilities plan, prepared in accordance with the DWSIRLF loan program regulations, must be submitted to MSDH. A complete DWSIRLF facilities plan includes: all Intergovernmental Review (IGR) agency comments; proof of publication of advertisement for public hearing; a transcript of the public hearing comments; copies of any comments received from

the public; and a summary of how each comment was addressed. The loan applicant should provide a copy of the facilities plan to USDA - Rural Utilities Service (RUS); if the loan applicant has an existing debt with RUS, their approval to incur the additional debt must be obtained and provided as part of the plan.

Any significant changes made to the facilities plan (i.e., changes in the chosen alternative location of the facility, cost increases that substantially affect the financial capability of the loan recipient) after this date will be considered a first submittal of the facilities plan. The loan applicant will then be in violation of the Priority System deadline and the project will be placed on the planning portion of the priority list. If the change is made after adoption of the IUP, funds reserved for this project may be released and made available to other projects.

2. By May 1, 2024, a completed DWSIRLF loan application and all associated documents as described in the DWSIRLF regulations must be submitted to the Department. Prior to preparing these documents, the potential applicant and/or its registered engineer must request and receive a DWSIRLF application and guidance. It is recommended that they request a pre-application conference with DWSIRLF staff as early in the application process as practical. This deadline also applies to all projects competing for released funds during FFY-2024 and to be able to qualify for the Previous Year Certified Projects Category in the FFY-2024 IUP.
3. By August 1, 2024, all approvable documents and responses to comments necessary for loan award must be submitted to the Department for its review and approval.

VII. FFY-2024 BIL EC PRIORITY LIST

**Fiscal Year - 2022 Mississippi Drinking Water Systems Improvements Revolving Loan Fund Program
Priority List – BIL Emerging Contaminants**

Project	Project Description	Zip Code	Priority Points	Service Area Population	Eligible PF Amount	Loan Amount Request	Statewide Cum. \$
Category IX: Existing Facilities Upgrade (Meeting Primary Standards)							
Jackson, City of	Study, Design & Construction, Emerging Contaminants	39216	11099	155000	\$5,000,000	\$5,000,000	\$5,000,000

VIII. EXPECTED PUBLIC HEALTH OUTCOMES & PERFORMANCE MEASURES

The objective of this program is to disperse all available loan and grant funds in a timely manner to achieve the public health protection benefits resulting from the projects identified in the FFY-2022 EC IUP, and to ensure compliance with loan agreements, as required by state and federal laws and regulations.

By implementing the FFY-2024 EC IUP and funding projects shown on the FFY-2022 EC Priority List (Section VII), the Board will have the means to plan for and fund projects that will address the most serious public health risks facing the public water supply systems in the state. Funding of the system projects will be determined by the amount of funding to be received for FFY-2022 BIL EC Cap Grant.

The success of the DWSIRLF Program will be defined by the ability of the MSDH to successfully meet commitments in the FFY-2022 EC IUP and Set-Aside Work Plan.

Additionally, the majority of the projects as proposed should have minimal impact on the environment due to the nature of their design. Where necessary, appropriate environmental reviews will occur and proper permitting through the Mississippi Department of Environmental Quality will be required to ensure minimal impact on the environment.

APPENDICES

APPENDIX A – FUNDS REPORT
DRINKING WATER SYSTEMS IMPROVEMENTS REVOLVING LOAN FUND PROGRAM - EMERGING
CONTAMINANTS
FUNDS REPORT - JUNE 2023

FFY-2022 Funding (Federal and State)		
National Title I DWSRF Appropriation - Mississippi's Allotment	+	\$8,133,000
State Match Required (20% of Mississippi's Allotment)	+	\$0
2022 Capitalization Grant for DWSRF w BIL Supplemental	=	\$8,133,000
2022 Cap Grant Set-Asides		
DWSRF Administration [SDWA Sec. 1452(g)(2) - the greater of: \$400,000, 1/5 % of the fund's current valuation, or up to 4% of the award]	+	\$227,113
Small Systems Technical Assistance [SDWA Sec. 1452(g)(2) - 2%]	+	\$162,660
Local Assistance and Other State Program [SDWA Sec. 1452(k)(2) - 15%]	+	\$1,219,950
State Program Management [SDWA Sec. 1452(g)(2) -10%]	+	\$0
Total 2022 Cap Grant Set-Asides	=	\$1,609,723
2022 Cap Grant Funds Available for Loan Obligation		
DWSRF Capitalization & BIL Supplemental Grants	+	\$8,133,000
Cap Grant Set-asides	-	(\$1,609,723)
Total Cap Grant Funds Available for Loan Obligation	=	\$6,523,277
Funds Anticipated to be Available for Loan Awards		
2022 Cap Grant Federal and State Funds Anticipated to be Available for Loan Obligation	+	\$6,523,277
Unobligated Funds Carried Over	+	\$0.00
Loan Increase Reserve	-	\$0.00
Total Funds Anticipated to be Available for Loan Awards	=	\$6,523,277
Funds Needed for Projects on the FFY-2022 Priority List and FFY-2023 & After Planning List		
Funds Needed for Projects on the Priority List & FFY-2023 and After Planning List	+	\$5,000,000
Funds Anticipated to be Available for Loan Awards	-	(\$6,523,277)
Total Fund Need Remaining for Projects on the Priority List and After Planning List	=	(\$1,523,277)

APPENDIX B - PROJECTED SCHEDULE OF OUTLAYS
FOR BIL EC CAPITALIZATION GRANT SET-ASIDES

FFY 2024 BIL EC Cap Grant

Federal Set-Asides	FFY 2024 Q1	FFY 2024 Q2	FFY 2024 Q3	FFY 2024 Q4	Totals
<u>Administration</u>	\$56,778	\$56,778	\$56,778	\$56,778	\$227,113
<u>Small System Tech Assist</u>	\$40,665	\$40,665	\$40,665	\$40,665	\$162,660
<u>Local Asst. & Other St. Programs</u>	\$304,988	\$304,988	\$304,988	\$304,988	\$1,219,950
<u>Total:</u>	\$402,431	\$402,431	\$402,431	\$402,431	\$1,609,723

**Appendix C - Projected Payment (Federal Letter of Credit) Schedule
(Schedule of Increases to ACH Ceiling)**

FFY-2022 Cap Grant No. 1 of 4	1 st Quarter FFY-2024	\$2,033,250	\$2,033,250
FFY-2022 Cap Grant No. 2 of 4	2nd Quarter FFY-2024	\$2,033,250	\$4,066,500
FFY-2022 Cap Grant No. 3 of 4	3rd Quarter FFY-2024	\$2,033,250	\$6,099,750
FFY-2022 Cap Grant No. 4 of 4	4th Quarter FFY-2024	\$2,033,250	\$8,133,000

APPENDIX D - PROJECTED SCHEDULE OF DRAWDOWNS AGAINST FEDERAL
LETTER OF CREDIT
(ACH DRAW SCHEDULE)

FFY-2024

<u>Outlay Quarter</u>	<u>Federal Outlay Amount</u>	<u>Cumulative Outlay Amount</u>
1 st Quarter	\$2,033,250	\$2,033,250
2nd Quarter	\$2,033,250	\$4,066,500
3rd Quarter	\$2,033,250	\$6,099,750
4th Quarter	\$2,033,250	\$8,133,000

APPENDIX E – EMERGING CONTAMINANTS TESTING

INTRODUCTION

The Mississippi State Department of Health (MSDH), Bureau of Public Water Supply (Department), will use the **Small System Technical Assistance Set-Aside & Local Assistance and Other State Programs Set-aside** of the DWSRF EC in an Emerging Contaminants Testing Program. The program will be surveying the State's drinking water system to identify, plan, and assist water systems in testing their system to identify emerging contaminants for treatment projects. Emerging contaminants are defined as those listed on EPA's Contaminant Candidate Lists (CCL1- CCL5).

SELECTION PROCESS

The contract for coordination of the program will run on a State Fiscal Year Basis. A contract is currently being developed in accordance with State contracting requirements.

A Request for Qualifications will be advertised statewide. Qualifications received will be reviewed by the Department to select the best qualified candidate for the agency. Recommendations for award of a contract will be presented to the Board at their regularly scheduled Board meeting; following authorization by the Board, the coordination contract will be awarded.

PROGRAM ACTIVITIES

The state will use the Small Systems Technical Assistance (up to 2%) set-aside from the BIL EC FFY-2022 Cap Grant to provide funding for EC Test to ultra small systems serving a population of 300 or less. With approval by the Board, the state intends to use this set-aside to fund a contract for providing professional services to water systems with a population of less than 300. This assistance will be available on a first-come, first-serve basis to water systems serving a population of 300 or less.

The state intends to use the first 10% of the 15% set-aside amount which is allowed from the FFY-2022 BIL EC Cap grant to provide funding for sampling for PFAS for water systems with population less than 1,000 but greater than 300 that are not currently required to sample for UCMR-5.

The state intends to use the remaining 5% of the 15% set-aside amount which is allowed from the FFY-2022 EC Cap grant to provide funding for sampling for PFAS for water systems with population less than 3,300 and greater than or equal to 1,000 that are not currently required to sample for UCMR-5.

With approval by the Board, the state intends to use this set-aside to fund contract(s) for providing professional services for EC testing to water systems of three separate size categories: A.) ultra-small systems serving a population of 300 or less B.) very small systems serving a population of less than 1,000 and greater than or equal to 300 and C.) small systems

serving a population of less than 3,300 and greater than or equal to 1,000. This assistance will be available on a first-come, first-serve basis to water systems serving a population that falls within these categories.

The activities described herein will be accomplished through a four-part process: **identification** of testing projects from our priority list and/or communication with the Program's Project Management Staff or the Department's Regional Engineers; **communication** with public water supply; **mobilization** of contractor to identified site to develop plans and perform testing; and **confirmation** that the work has been performed.

Identification – The contractor will survey our priority list and/or communication with the Program's Project Management Staff or the Department's Regional Engineers while identifying the proper set-aside category to fund the potential testing.

Communication – Staff from the contractor will meet with system officials to inform them of the program, explain what Emerging Contaminants Testing looks like for their system, and encourage them to take advantage of funding through our program.

Mobilization – Once the communication phase has been completed and the system request to move forward, staff of the contractor will mobilize to the selected site and commence with the plan and testing of the System's drinking water. Acceptable methods of testing will be determined and outlined by the Department then communicated to the contractor.

Confirmation – Staff of the contractor will provide the Program's Project Management staff with results and recommendations for an Emerging Contaminants Treatment Project.

SCHEDULE FOR COMPLETING ACTIVITIES

The schedule for completing Emerging Contaminants Testing Program activities under this work plan will be the schedule established by set contractual dates.

AGENCY RESPONSIBILITIES

The Program will be monitoring contractors throughout the process to ensure effective completion of contractual assignments.

EVALUATION PROCESS TO ASSESS THE SUCCESS OF SET-ASIDE ACTIVITIES

The success of these set-asides will be defined by the ability of the MSDH through the solicited contractor(s) to identify, plan, and assist water systems in Emerging Contaminants Testing that lead to Emerging Contaminants Treatment Projects to create safer drinking water for all consumers of Mississippi's drinking water.

APPENDIX F - CERTIFICATIONS

In addition to the ten (10) assurances included below, the state acknowledges that there are six (6) additional assurances that the state has agreed to in either the Operating Agreement between the State and EPA Region IV or the annual capitalization grants. These two documents are hereby incorporated into this IUP by reference.

1. The state certifies that all drinking water facility projects in this IUP identified in Section VII as being subject to the federal cross-cutting requirements are or will be in compliance with all such requirements prior to the state entering into an assistance agreement with the recipient.
2. The state certifies that it will make an annual report to the Regional Administrator on the actual uses of the funds and how the state has met the goals and objectives for the previous two fiscal years as identified in the IUPs; and to annually have conducted an independent audit of the funds to be conducted in accordance with generally accepted government accounting standards.
3. The state certifies that this IUP will be subjected to public review and comment prior to final submission to EPA. The state certifies that it will follow the “Mississippi Administrative Procedures Law” in seeking public review and comments on this IUP. A copy of the “Mississippi Administrative Procedures Law” can be obtained from the Mississippi Secretary of State’s Office and can be found on the Mississippi State Department of Health’s website at www.healthhms.com/dwsrf.

An oral proceeding will be held to receive written and oral comments on this IUP. A transcript of the public hearing recording the comments and recommended solutions will be submitted to EPA along with the Final IUP. Anyone desiring to receive a copy of the oral proceeding transcript should contact Jonathan Diaz, Program Support Specialist, at (601) 576-7518 to request copies.

4. The state certifies that all drinking water facility projects in this IUP are on the project Priority List developed pursuant to the requirements of Section 1452(b)(3)(B), SDWA.
5. The state certifies that it will enter into binding commitments for 120% of the amount of each payment (LOC) under the capitalization grant within one year after receipt of each payment (LOC).
6. The state certifies that it will commit and expend all Drinking Water Systems Improvements Revolving Loan Fund (DWSIRLF) Program monies as efficiently as possible, and to disburse the funds in a timely and expeditious manner.
7. The state certifies that it will conduct environmental reviews on all DWSIRLF cross-cutter equivalency projects in accordance with the State Environmental Review Process (SERP).

8. The state certifies that prior to adding any new projects to the “FFY-2022 and After Planning List” for the purpose of funding such a project during FFY-2022 that the state will follow the “Mississippi Administrative Procedures Law” in amending this IUP to allow for public review and comments.
9. The state certifies that it has developed and implemented a Capacity Development (CD) strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity as required in Section 1420(c) of the 1996 Amendments to the SDWA. This CD program is currently approved by EPA.
10. The state certifies the State’s Operator Certification Program is currently approved by EPA.

APPENDIX G – INFRASTRUCTURE INVESTMENT AND JOBS ACT

Sections of the Infrastructure Investment and Jobs Act (H.R. 3684) that impact the Drinking Water SRFs:

I. **Funding**

The bill appropriates \$30.713 billion for the Drinking Water State Revolving Funds (SRFs) over five years. (This is actual funding.) (See Division J – Appropriations, Title VI Department of Interior, Environment and Related Agencies, State and Tribal Assistance Grants: Starts on page 2,565 of the bill.)

II. **Reauthorization & Policy**

The bill includes The Drinking Water and Wastewater Infrastructure Act (S. 914) which reauthorizes funding levels for the SRFs and amends SRF provisions in the Clean Water Act and the Safe Drinking Water Act. (See Division E – Drinking Water and Wastewater Infrastructure: Starts with Section 50001 on page 1,887 of the bill.)

III. **Buy America / Buy American**

The bill expands domestic preference procurement provisions for programs across government, including the SRFs. (See Division G – Other Authorizations, Title IX Build America, Buy America: Starts with 70901 on page 2,303 of the bill.)

I. **Funding**

The bill provides three pots of funding for SRFs over the next five years:

- Any Eligible Project:
 - \$11,713,000,000 for the Drinking Water SRF for any eligible project.
- Lead Remediation:
 - \$15 billion for the Drinking Water SRF for lead service line replacement, including planning, identification, and design (includes inventories).
- Emerging Contaminants Remediation:
 - \$4 billion for remediation of emerging contaminants with a focus on PFAS/PFOA for the Drinking Water SRF.

Key points for this supplemental appropriation:

- Funding is intended to be in addition to annual appropriations.
- Funding is available “until expended.”
- State match is not required for appropriations dedicated to lead service line replacement and remediation of emerging contaminants.
- State match is 10% for 2022-2023 and 20% for 2024-2026 for appropriations for any eligible project.
- 100% of the capitalization grant for emerging contaminants must be used for additional subsidy. A flat 49% of the annual capitalization grant for any eligible project and lead service line replacement must be used for additional subsidy.

- Additional subsidy must be provided in the form of assistance agreements with 100% principal forgiveness or grants.

Year	Drinking Water SRF Any Eligible Project	State Match	Mandated Additional Subsidy
2022	\$1,902,000,000	10%	49%
2023	\$2,202,000,000	10%	49%
2024	\$2,403,000,000	20%	49%
2025	\$2,603,000,000	20%	49%
2026	\$2,603,000,000	20%	49%
Total	\$11,713,000,000		
Year	Drinking Water SRF Emerging Contaminants	State Match	Mandated Additional Subsidy
2022	\$800,000,000	0%	100%
2023	\$800,000,000	0%	100%
2024	\$800,000,000	0%	100%
2025	\$800,000,000	0%	100%
2026	\$800,000,000	0%	100%
Total	\$4,000,000,000		
Year	Drinking Water SRF Lead	State Match	Mandated Additional Subsidy
2022	\$3,000,000,000	0%	49%
2023	\$3,000,000,000	0%	49%
2024	\$3,000,000,000	0%	49%
2025	\$3,000,000,000	0%	49%
2026	\$3,000,000,000	0%	49%
Total	\$15,000,000,000		
Total	\$30,713,000,000		

II. Reauthorization & Policy

The bill includes The Drinking Water and Wastewater Infrastructure Act of 2021 (S. 914) which passed the U.S. Senate on Thursday, April 29, by a vote of 89 – 2 (9 not voting). The bill contained the following provisions. (Policy provisions apply to annual appropriations, not supplemental appropriations in the bill.)

Funding

- Reauthorizes Drinking Water SRFs at the same levels for the next five years:
 - 2022: \$2.4 billion
 - 2023: \$2.75 billion

- 2024: \$3 billion
 - 2025 and 2026: \$3.25 billion
- Reauthorizes SWIFIA: \$5 million annually for the next five years, 2022 through 2026.

Additional Subsidy

- Defines additional subsidization as “forgiveness of principal, grants, negative interest loans, other loan forgiveness, and through buying, refinancing, or restructuring debt” for both SRFs and excludes loans with 0% or higher interest are not additional from being considered additional subsidy.
- Mandates minimum additional subsidy for as long as there are eligible applications:
 - Drinking Water SRFs: Increases additional subsidy from 6% to 12% of the capitalization grant for additional subsidy for disadvantaged communities.

III. Buy America / Buy American

The legislation also expands domestic preference procurement requirements for SRF projects from American Iron and Steel to construction materials and manufactured products.