



# INTENDED USE PLAN DRINKING WATER STATE REVOLVING FUND

STATE FISCAL YEAR (SFY) 2023  
FEDERAL FISCAL YEAR (FFY) 2022





# Drinking Water State Revolving Fund

## Intended Use Plan

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## Introduction

The Tennessee General Assembly passed the “Drinking Water Revolving Fund Act of 1997” to provide low-interest loans to local governments as a vehicle to finance water infrastructure improvement projects. Today, the Drinking Water State Revolving Fund (DW SRF) Loan Program is within the Tennessee Department of Environment and Conservation (TDEC) Division of Water Resources (DWR) and has provided over \$300 million dollars in assistance to Tennessee communities since the program began. This program is part of the TDEC State Revolving Fund (SRF), which provides low-interest loans and technical assistance to cities,

counties, utility districts, and water authorities across the state for planning, design, and construction of drinking water, stormwater, and wastewater infrastructure projects. The SRF Loan Program supports TDEC’s mission to protect and promote human health and safety, and to protect and improve water quality across the state by helping communities afford safe, sustainable, and resilient water systems. DW SRF is designed as a federal-state partnership program to assist public water systems (PWS) in attaining safe and reliable drinking water. The federal program was created through Congress’ 1996 amendments to the Safe Drinking Water Act (SDWA), which authorized the U.S. Environmental Protection Agency (EPA) to establish a DW SRF Loan Program to further the objectives of the SDWA. The SDWA instructs states to utilize DW SRF funds to address risks to human health, drinking water compliance issues, and to assist PWS most in need. Additional information about the DW SRF Loan Program can be found on the TDEC SRF website.

The EPA awards Drinking Water Capitalization Grant funds annually to the State, and in turn, the State obligates federal funds, along with a 20% state match, to provide financing to public and private water systems for planning, design, and construction projects that include (but are not limited to): plant replacement and upgrade; distribution system installation, repair, and upgrade; water loss; treatment; storage; water reuse;

#### Elements of the Drinking Water State Revolving Fund Intended Use Plan:

TDEC SRF long-term and short-term goals

The financial status of the Drinking Water SRF Loan Program

Description of the methods and criteria used to distribute funds

Description of the amount of set aside funds and details on how the state intends to use those monies.

Priority Ranking List (PRL) for 2022

TDEC’s new Small and Disadvantaged Community program

TDEC’s new Ability To Pay Index

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green infrastructure; energy optimization; and resilience. These funds are repaid over time, ensuring the long-term viability of the DW SRFSRF Loan Program. In addition, a portion of the Capitalization Grant (up to 31%) can be “set-aside” for direct support of state staff, DW SRF administration, water system capacity development, operator certification, source water protection, small systems technical assistance and the Public Water System Supervision (PWSS) program. Each state determines the appropriate balance between water infrastructure projects and set-asides for their unique circumstances. Section 1452(b) of the SDWA requires each state to annually prepare an Intended Use Plan (IUP) to outline the use of grant funds awarded to the state and to describe how those uses support the goal of protecting public health and the environment.

TDEC’s [Drinking Water IUP](#) serves as the planning document detailing how the federal fiscal year (FFY) 2022 appropriations for the DW SRF loan program will be used. The State of Tennessee’s allotment of FFY 2022 DW SRF Base Capitalization Grant dollars is \$12,172,000. The State is required to provide a 20% match of federal funds or \$2,434,400. The Base Capitalization Grant plus State match will provide an expected \$14,606,400 in funds available for the DW SRFSRF Loan Program in SFY 2023.

In addition to the base allotment provided in FFY 2022, Congress passed the Infrastructure Investment and Jobs Act of 2021, also known as the Bipartisan Infrastructure Law (BIL). BIL provides additional funding to strengthen the nation’s drinking water, stormwater, and wastewater systems. More than \$50 billion will be invested in American water infrastructure over the next five years. This funding is structured to finance three distinct areas.

1. Provide general supplemental funding for both the DW SRF and CWSRF Loan Programs,
2. Address emerging contaminants through both DW SRF and CWSRF Loan Programs
3. Elimination of lead service lines in drinking water systems through DW SRF.

This additional funding will finance water infrastructure projects that treat and eliminate emerging contaminants of concern, remove and/or replace lead service lines (LSL) both on the public and private side, and provide supplemental support for traditional SRF projects. A key priority of BIL is to ensure disadvantaged communities benefit equitably from this investment in water infrastructure. Through BIL, Congress mandates that 49% of the General Supplemental funding and LSL funding be provided as forgivable loans or grants to communities that meet the State’s definition of disadvantaged. Communities that do not meet these criteria are still eligible for funding but will be funded according to the State’s

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#### [Subsidies and Affordability Criteria.](#)

### ***BIL General Supplemental Capitalization Grant***

The State of Tennessee's Drinking Water BIL General Supplemental allotment for FFY 2022 is \$31,253,000. The State is required to provide a 10% match of federal funds, or \$3,125,300, to receive the full general supplemental allotment. The BIL General Supplemental will provide an additional \$34,378,300 in funds available to the DW SRFSRF Loan Program in SFY 2023.

The funds needed for state match have been approved in the State of Tennessee general budget and will be appropriated when the grant has been received from EPA.

## **Drinking Water State Revolving Fund Program Goals**

The U.S. Congress gives state DW SRF Loan Program's flexibility to design a program tailored to meet the needs of the state, local communities, public water systems and private water systems. Tennessee's DW SRF Loan Program has developed long and short-term goals as a framework for decisions Tennessee makes in the DW SRF Loan Program.

### ***Long-Term DW SRF Goals***

1. Ensure a safe and adequate water supply for the small communities by maximizing small community participation in the DW SRF Loan Program.
2. Provide assistance for projects to facilitate compliance with national primary drinking water regulations under section 1412 of the SDWA or otherwise significantly further the health protection objectives of the Act [section 1452(a)(2)].
3. Protect and enhance the water quality in Tennessee by ensuring the technical integrity of funded projects.
4. Maintain the long-term financial integrity of the DW SRF Loan Program through the judicious use and management of its assets and by realizing an adequate rate of return, preventing fraud, waste, and abuse.
5. Ensure the use of accounting, audit, and fiscal procedures that conform with [Generally Accepted Accounting Principles \(GAAP\)](#) as issued by the Government Accounting Standards Board (GASB).
6. Obligate funds in a timely manner and provide technical and administrative assistance for efficient project management.
7. Use the DW SRF set-aside funds strategically and in coordination with the program

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loans to maximize the DW SRF loan account's impact on achieving affordable compliance and public health protection.

8. Facilitate allocation of program resources to address the most significant public health and compliance problems by actively working with these systems and the drinking water regulatory staff.
9. Promote the development of the technical, managerial, and financial capability of all PWS to maintain or come into compliance with state drinking water and federal SDWA requirements.
10. Encourage the consolidation or regionalization of PWS that lack the capability to operate and maintain systems in a cost-effective manner, thus allowing them to take advantage of the economies of scale available to larger water systems.
11. Provide drinking water assistance in an orderly and environmentally sound manner.
12. Assure that all new water systems funded by the program demonstrate technical, managerial, and financial capability with respect to each national primary drinking water regulation in effect.

### ***Short-Term DW SRF Goals***

1. Coordinate completion of set-aside work plans for each set-aside activity annually.
2. Support the continuation of source water protection programs.
3. Coordinate implementation of capacity development strategy with PWSS staff.
4. Update administrative policies and guidance including standard operating procedures for the DW SRF Loan Program.
5. Provide supervision and direct technical assistance to PWS.
6. Assist the development and implementation of local drinking water protection initiatives.
7. Expand the use of green project funding to include more projects and encourage innovative use of SRF funds following EPA's guidance. TDEC SRF has elected to strive for a goal of up to 18% of grant funds to be used for innovative, green, or resilient projects.
8. Expand and broaden our outreach activities to ensure that public and private water systems are aware of and understand DW SRF assistance options and the loan application process by presenting at regional roundtables and an annual statewide workshop to publicize the DW SRF Loan Program in coordination with the Tennessee



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Department of Economic & Community Development and USDA-Rural Development.

9. Develop a database for drinking water project data and program management data.
10. Ensure that all grant award funds are expended in an expeditious and timely manner.
11. Review current DW SRF rules and statute for potential updates. Recommendations for updates may include improved clarity or language concerning source water protection eligibilities, extended loan terms, use of SRF funds for asset management plans, land conservation, and inclusive language for green infrastructure elements that improve hydrology and drinking water quality.
12. Review and develop recommendations for updates to the DW SRF priority ranking system.
13. Research other state SRF Loan Programs and conduct a cost benefit analysis to make recommendations for implementing a loan closing fee to support a sustainable funding source and reduce the SRF Loan Program reliance on state appropriations for match funding.
14. Securing new computer equipment for DW SRF staff.

## Drinking Water Priority Ranking System

TDEC's DW SRF Loan Program uses a priority ranking system to develop the [Priority Ranking List \(PRL\)](#). Applicants seeking funding must submit a Questionnaire that includes a detailed project description, need for the project, total project cost, projected construction start and completion dates, requested loan amount, and term of the loan. Projects eligible for DW SRF funding are described in the [EPA Eligibility Handbook](#). Projects are prioritized by those that address reducing risks to human health or those working to maintain or improve compliance with SDWA. Tennessee has established a priority ranking system, compliant with the SDWA, based on a scale from 0-100 points. Priority points will be assigned based on the type of project and the severity of the problem to be addressed by the proposed project. The only projects eligible for the maximum of 100 points will be those that address serious, acute risks to human health. Other projects will be assigned 20, 40, 60, or 80 points depending on the severity of the

### Fundable Drinking Water Project Categories

- Water Quality Issues
- Source or Capacity Challenges
- Water Storage
- Leakage Problems
- Pressure Issues
- Replacement or Rehabilitation Needs
- Water Line Extensions
- Regional Drinking Water Consolidation
- New Drinking Water Svstems

### Projects and activities *not* eligible for funding and primarily intended for the following:

- Future growth
- Economic development
- Fire protection
- Dams
- Reservoirs
- Water rights
- Laboratory fees for monitoring
- Operation and maintenance expenses

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problem and whether a compliance problem exists. Projects requesting funds for ineligible activities such as fire protection, dam construction, or future growth will not be assigned priority points. Projects demonstrating the greatest risk to human health will receive the highest priority points followed by projects addressing compliance problems and then projects addressing other needs. Projects with the same priority points will be ranked based on consideration of the Ability To Pay Index (ATPI) and population served to assist small and disadvantaged communities.

Section 1452(3)(A)(i) and (ii) of the SWDA states the DW SRF Loan Program may not provide assistance to any system that is in significant non-compliance with any national drinking water regulation or variance unless the State conducts a review and determines that the project will enable the system to return to compliance and the system will maintain an adequate level of technical, managerial, and financial capability to maintain compliance.

### ***List of Projects***

In accordance with Section 1452(b)(3)(B) of the SDWA, TDEC SRF has developed a list of projects to receive funding in the first year after the grant award. The PRL includes community information, project description, total priority points, ATPI, total project cost, funding source, associated water system identification number, anticipated FFY 2022 Base Capitalization Grant principal forgiveness, anticipated FFY 2022 BIL General Supplemental principal forgiveness, anticipated principal forgiveness from the Revolving Base, amount of GPR, anticipated construction start and end dates, and anticipated terms of financial assistance. The DW SRF PRL in the Appendix contains eligible projects for which the total cost of assistance requested is at least equal to the amount of the FFY 2022 Base Allotment and BIL General Supplemental Capitalization Grants.

### ***Funding of Projects***

DW SRF Loan Program projects are ranked with the potential to be funded based on the highest number of priority points awarded on the 2022 DW SRF PRL. The FFY 2022 Base Allotment and the BIL General Supplemental Capitalization Grant funding priority will be directed to the highest-ranked projects that are ready to proceed with construction. This includes small and disadvantaged communities, green and resilient infrastructure projects, and projects with subsidies. The SRF Loan Program will provide funding letters to all communities with projects on the 2022 PRL after the EPA loan award date. Project loans may be awarded each month depending upon a community's readiness to proceed and the scheduling of the Tennessee Local Development Authority board meeting.

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#### ***Project By-Passing Procedures***

Projects on the 2022 PRL, regardless of rank, may be bypassed if communities are not ready to proceed or if they do not respond to the funding notification letter. The DW SRF Loan Program will work with entities that are bypassed to ensure that the projects will be eligible for funding in the following fiscal year to the maximum extent possible. Exceptions to the order of funding may be allowed under special circumstances. Such projects would include those where some type of failure was unanticipated and requires immediate attention to protect public health, safety, and to improve water quality condition.

#### ***Subsidies and Affordability Criteria***

AWIA contains provisions and amendments to the SDWA that require states to provide at least 12% but no more than 35% of the capitalization grant amount as subsidy. The FFY 2022 BIL General Supplemental Capitalization Grant requires states to use 49% of the grant amount to provide additional subsidy. The state of Tennessee intends to meet this obligation by providing standard principal forgiveness subsidy to projects that meet small and disadvantaged communities or green project reserve criteria and are on the 2022 PRL.

The SRF Loan Program has developed multiple ways for communities and utility systems to benefit from SRF subsidies. Reduced interest rates (discussed in the [ATPI Reduced Interest Rates](#) section), principal forgiveness, and green project reserve subsidy are all options an applicant can explore in an attempt to reduce their overall financial burden for drinking water infrastructure improvements. Communities and utility systems seeking infrastructure financing from SRF can take advantage of the program's multiple subsidy strategies.

#### Base SRF Capitalization Grant Projects

1. Principal Forgiveness for Small and Disadvantaged Communities: Small communities with ATPIs of 50 or less are eligible for principal forgiveness. Details on qualifications can be found in the [Principal Forgiveness for Small and Disadvantaged Communities](#) section of this document.
2. Green Project Reserve (GPR) Principal Forgiveness: The SRF Loan Program may award 20% principal forgiveness if the project proposal incorporates a significant amount of green infrastructure, water and energy efficiency, or sustainable, resilient, and innovative practices. Details on project requirements can be found in the [Green Project Reserve Principal Forgiveness](#) section of this document.
3. Asset Management Plan: The SRF Loan Program may award principal forgiveness to communities to aid in the development of an Asset Management Plan. Details regarding principal forgiveness qualifications can be found in the [Asset Management](#)

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[Plan](#) Requirements section of this document.

#### BIL General Supplemental Capitalization Grant Projects

Principal Forgiveness for BIL Funding: Communities may be eligible for 50% principal forgiveness (up to a maximum of \$5,000,000 in principal forgiveness per project) if they meet the [Eligibility Requirements for BIL Principal Forgiveness](#).

#### ***ATPI Reduced Interest Rates***

The State will use the ATPI for the allocation of DW SRF subsidies and interest rates. The development and use of the index are required for the administration of SRF loans by the Water Resources Reform and Development Act (WRRDA) of 2014, 33 U.S.C.A. §§ 2201 to 2355. The index is derived from a database of socioeconomic and financial data. It is used to assist in decision making regarding interest rates, allocation of subsidy, and identification of options intended to benefit communities most in need. The index is determined based on a normal distribution of affordability scores for cities and for counties. The affordability score is a simple average of nine (9) factors unique to each community. Together, these factors: median household income, unemployment, food stamp dependence, families in poverty, community assets, revenues, debt, expenditures, and change in population determine a community's Ability To Pay Index value. Tennessee intends to update the ATPI annually to capture the most current fiscal capacity, changes, and economic trends of communities across the state.

A community's interest rate will be based on their ATPI. Interest rates can vary from 40 percent of the interest rate reported to 100 percent of the interest rate reported on the 20-year, 25-year, and 30-year Bond Buyer Index and the Municipal Market Data General Obligation Yields published every Thursday. The interest rates for utility districts and water authorities that have service areas in more than one county will be evaluated and ranked by utilizing the lowest ATPI for the county or city that directly benefit from the project(s) associated with the loan.

The state has developed a tiered interest rate reduction methodology that corresponds to a community's ATPI. Low range ATPI's (0-20) will be awarded a 0.40 multiplier. ATPI scores with a range of 30-40 will be awarded a 0.60 multiplier, 50-60 will be awarded a 0.80 multiplier and ATPIs of 70 or greater will receive the standard reported interest rates. SRF interest rates are further stratified by the term of the loan. Once loan terms are established, the appropriate base interest rate is selected. The community ATPI is verified, then the multiplier corresponding to the ATPI is multiplied by the base interest rate to establish the SRF awarded interest rate.

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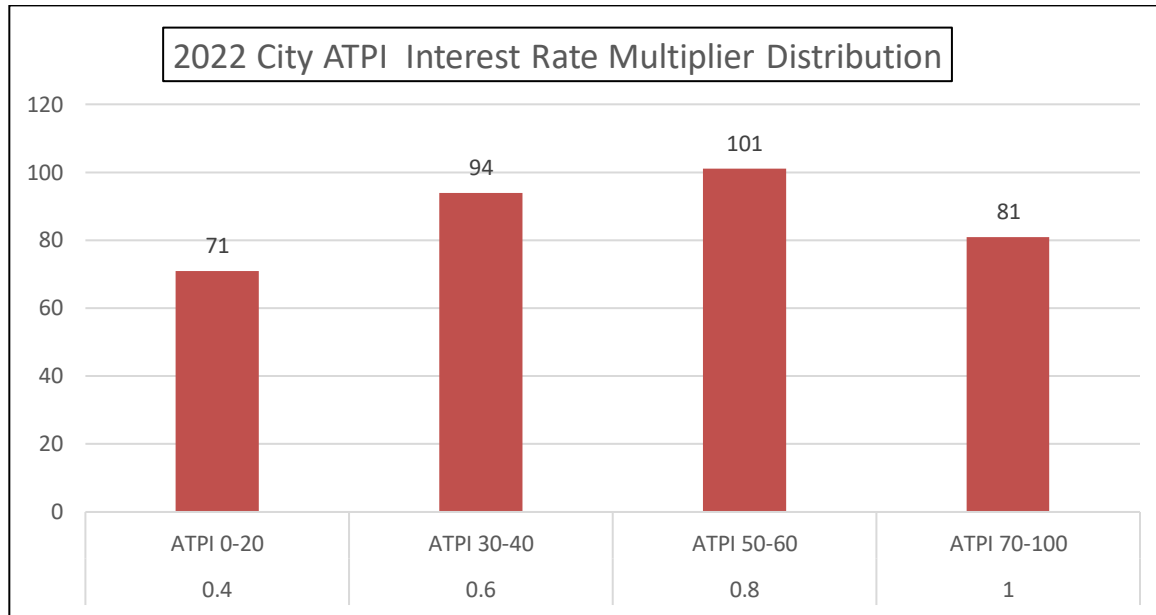


Figure 1: ATPI Interest Rate Multiplier Distribution

### ***Principal Forgiveness for Small and Disadvantaged Communities***

The SRF Loan Program continues to respond to requests from Governor Lee regarding rural community assistance by prioritizing allocation of subsidy for drinking water infrastructure (in the form of principal forgiveness and lower interest rates) to communities identified as both small and economically disadvantaged. Eligibility of DW SRF principal forgiveness will be determined based on the most current ATPI. Small communities are those with a population of 20,000 or fewer. To be considered disadvantaged, the community must score 50 or less on the ATPI. The affordability criteria from the ATPI will also be used to prioritize projects that have the same number of points from the PRL. Communities with greater economic need and smaller populations will be given a higher ranking.

As part of TDEC's effort to assist small, disadvantaged, and rural communities, SRF has developed two subsidy options.

1. Standard principal forgiveness for projects that include construction will be provided at 20% of the loan value (not to exceed \$2,500,000 in principal forgiveness per project).
2. Priority principal forgiveness of 50% for all planning or planning and design loans (not to exceed \$250,000 in principal forgiveness per project).

The SRF Loan Program will allocate proportional amounts of principal forgiveness on an

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annual basis for those communities in the lowest tier of ability to pay. This ensures the long-term stability of SRF Loan Program. The maximum amount allowed for subsidization from the FFY2022 Base SRF Capitalization Grant is \$4,260,200.

#### Eligibility Requirements for Principal Forgiveness

1. Communities must have a population of 20,000 or fewer.
2. Communities must have an ATPI of 50 or less.
3. Projects must be on the current DW SRF PRL.
4. Projects shall be ready to proceed (based on type of loan).
5. Entity must pass a financial sufficiency review by TDEC SRF.

#### Base SRF Capitalization Grant Projects

##### **Standard Principal Forgiveness**

1. 20% loan forgiveness not to exceed total principal forgiveness of \$2,500,000 per project.
2. Projects must include construction (planning, design, and construction projects or construction solely).
3. Standard principal forgiveness will not be given for planning and design loans.

##### **Priority Principal Forgiveness**

1. 50% loan forgiveness not to exceed a total principal forgiveness of \$250,000 per project.
2. Projects cannot include construction (planning or planning and design loans only).
3. Priority Principal Forgiveness is only available to small and disadvantaged communities.

#### BIL General Supplemental Capitalization Grant Projects

Congress has mandated that 49% of funds provided through the DW SRF General Supplemental funding must be provided in principal forgiveness. Principal forgiveness provided under BIL funds seeks to provide aid to communities that meet the State's definition of disadvantaged.

##### **BIL Principal Forgiveness**

1. 50% loan forgiveness not to exceed total a principal forgiveness of \$5,000,000 per project.
2. Projects must include construction (planning, design, and construction projects or construction solely).

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3. BIL General Supplemental projects are not eligible for principal forgiveness for planning or planning and design loans.

### ***Green Project Reserve (GPR) Principal Forgiveness***

The FFY 2022 Capitalization Grant allows DW SRF funding of GPR projects at the discretion of each state to address green infrastructure, resilience, water or energy efficiency improvements, or other environmentally innovative activities. The State has chosen to allocate a minimum of 10% of the FFY 2022 project funds to fund eligible green projects. The State has elected to strive for a goal of 18% allocation for green projects.

Projects that meet eligibility requirements defined in the [EPA Eligibilities Handbook](#) will be considered “green projects” and will receive principal forgiveness of 20% of the loan, not to exceed \$2,500,000 in principal forgiveness per project. Selection and ranking of projects meeting green project criteria will follow the same process as all other SRF projects.

#### Eligibility Requirements for Principal Forgiveness for Green Projects

All communities, regardless of size and ATPI, are eligible for principal forgiveness if the projects proposed meet specific eligibility requirements. All eligible green projects must be on the current PRL, meet the definition of a green project and include construction. Projects should fall within at least one of the following categories: Water and Energy Efficiency, Green Infrastructure and Source Water Protection, or Resilient, Sustainable, and Environmentally Innovative.

#### BIL General Supplemental Projects

All projects that meet GPR criteria are eligible for 20% principal forgiveness (not to exceed \$2,500,000 in principal forgiveness per project) under the BIL General Supplemental funds.

### ***Asset Management Plan Principal Forgiveness***

The SRF Loan Program is offering 5-year loans with principal forgiveness to assist communities develop Asset Management Plans. These plans will allow communities to establish an inventory and condition of their water infrastructure assets. All communities regardless of size and ATPI are eligible for principal forgiveness. Communities with an ATPI of 50 or less are eligible for 75% principal forgiveness, not to exceed \$375,000 in principal forgiveness. Communities with an ATPI of 60 or greater are eligible for 50% principal forgiveness, not to exceed \$250,000 in principal forgiveness.

### ***Loan Terms and Fees***

The term for an SRF loan from FFY 2022 Base funding or BIL General Supplemental funding

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will be a maximum of 30 years or the useful life of the project, whichever is shorter. A loan fee of 8 basis points (0.08%) is charged by the Office of State Government Finance for all DW SRF loans that are awarded on or after October 1, 2009. Fees collected fund State Government Finance personnel and operational costs associated with administering loans, payment disbursement requests, repayments, and fund management.

### ***Financial, Managerial, and Technical Capacity***

The State is required under Section 1452(a)(3) of the SDWA to develop a process to assess the technical, financial, and managerial capacity of water systems before a loan can be awarded. State law was amended March 10, 1998, to give authority to the TDEC to require all new community water systems and new non-transient, non-community water systems commencing operation after October 1, 1999, to demonstrate technical, managerial, and financial capacity to comply with the national primacy drinking water regulations and the provisions of the Tennessee SDWA and the rules promulgated thereunder. The law was also amended to grant to TDEC the authority to develop a strategy to assist PWSS in acquiring and maintaining technical, managerial, and financial capacity. Regulations governing the Capacity Development Program in the State for new systems became effective on August 29, 1999. The state is in compliance with the SDWA section 1420(c)(3), which requires the state to assess the effectiveness of their strategy to ensure that PWSS providers have the technical, managerial, and financial capacity to operate a PWS.

In addition to the strategy, the State has two (2) boards that evaluate the technical, financial, and managerial capacity of water systems eligible for DW SRF loans. The Water and Wastewater Financing Board addresses cases involving county and municipal government water systems and water and wastewater authorities. The Utility Management Review Board addresses cases involving utility districts and water and wastewater authorities. SRF loan applicants in significant noncompliance will be required to demonstrate to the DW SRF Loan Program that the proposed DW SRF project will ensure compliance. The DW SRF Loan Program will access documents that demonstrate the loan applicant's managerial, technical, and financial capacity. This evaluation allows TDEC to recommend the loan for approval to the Tennessee Local Development Authority Board.

### ***Loan Recipient Project Requirements***

All DW SRF projects are required to comply with all current DW SRF rules, regulations, policies, and procedures provided in this section.

#### Davis-Bacon

The Davis-Bacon Act, 46 Stat. 1494 (Pub. Law 71-800), and Related acts apply to contractors



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and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. The Davis-Bacon Act (DBA) and Related Acts require contractors and subcontractors to pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or District of Columbia contracts. The prevailing Davis-Bacon Act wage provisions apply to the "Related Acts," under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek. The overtime provisions of the Fair Labor Standards Act may also apply to DBA-covered contracts.

#### Disadvantaged Business Enterprise (DBE) Goals

DBE reporting is required in annual reports. Reporting is required for assistance agreements where funds are budgeted for procuring construction, equipment, services, and supplies (including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category) with a cumulative total that exceed the threshold amount of \$250,000, including amendments and/or modifications. When reporting is required, all procurement actions are reportable, not just that portion which exceeds \$250,000.

In accordance with 40 CFR, Part 33, Subpart D, established goals/objectives remain in effect for three fiscal years unless there are significant changes to the data supporting the fair share objectives. The loan recipient is required to follow requirements as outlined in 40 CFR Part 33, Subpart D when renegotiating the fair share objectives/goals.

Pursuant to 40 CFR § 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State, and Local and Government recipients, this will include placing DBEs on solicitation lists

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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 Indian Tribal, State, and local Government recipients, this includes 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 of the Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (1) through (5).

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302 (a)-(d) and (i).

Recipients of a Continuing Environmental Program Grant or other annual reporting grant agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

A class exception to the entire Subpart D of 40 CFR Part 33 has been authorized pursuant to the authority in 2 CFR 1500.3(b). Notwithstanding Subpart D of 40 CFR Part 33, recipients are not required to negotiate or apply fair share objectives in procurements under assistance agreements.

When required, the recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants and Cooperative Agreements" report (EPA Form 5700-52A) on an annual basis.

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#### American Iron and Steel

The American Iron and Steel (AIS) provision requires the DW SRF assistance 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 PWSS or treatment works and if the project is funded through an assistance agreement executed beginning January 17, 2014. AWIA extends the AIS provision for DW SRF projects through Fiscal Year 2023.

On October 23, 2018, the President signed AWIA, which includes several updates and revisions to the SDWA, including the DW SRF provisions. Section 2022 of AWIA amended Section 1452(a)(4)(A) of SDWA to extend the requirement for the use of American Iron and Steel (AIS) products in projects receiving financial assistance from the DW SRF during fiscal years 2019 through 2023.

#### Build America, Buy America (BABA) Act

The Bipartisan Infrastructure Law Title IX, Subtitle A, Part 1 requires all federal equivalency projects, that are funded after May 14, 2022, met BABA requirements. BABA requires all of the iron, steel, manufactured products, and construction materials used in the project be produced in the United States. Iron and Steel products will still have to comply with AIS guidelines. For manufactured projects to meet BABA requirements, the cost of components that are mined, produced, or manufactured in the United States must be 55% or more of the total cost of all components, and does not include labor costs. Common construction materials include non-ferrous metals, plastic, and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables, glass (including optic glass), lumber, and drywall.

## **Sources and Uses of Funds**

### ***Sources of Funds***

The State of Tennessee's allotment of FFY 2022 DW SRF Base Capitalization Grant dollars is \$12,172,000. The State is required to provide a 20% match of federal funds or \$2,434,400. The Base Capitalization Grant plus State match less the 4% funds for administration will provide an expected \$14,119,520 in funds available for the DW SRF Loan Program in SFY 2023. DW SRF Additionally, the State of Tennessee's BIL General Supplemental allotment for FFY 2022 is \$31,253,000. The State is required to provide a 10% match of federal funds, or \$3,125,300, to receive the full general supplemental allotment. The BIL General Supplemental less set-asides and 4% administrative funding plus state match will provide an additional \$29,064,848 in funds available to the DW SRF Loan Program in SFY 2023. Based

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on the carry forward funds, principal repayments, loan interest income, and treasury interest income added to the available funds from the FFY 2022 DW SRF Base and BIL General Supplemental Capitalization Grants, the state can provide approximately \$138,265,400 for project loans (Table 1).

<b>Financial Status of the DW SRF Loan Program for SFY 2023</b>		
Prior-Year (SFY 2022) Carry-forward Funds		\$ 66,869,208
FFY 2022 Capitalization Grant		12,172,000
FFY 2022 BIL Supplemental Capitalization Grant		31,253,000
20% of FFY 2022 Capitalization Grant matched by State		2,434,400
10% of FFY 2022 BIL Supplemental Capitalization Grant matched by State		3,125,300
Less: Set-asides		
4% Administration - General Capitalization Grant	(486,880)	
4% Administration - BIL Supplemental Capitalization Grant	(1,250,120)	
7.5% State Program Management Public Water Supply Supervision (PWSS) - BIL Supplemental Capitalization Grant	(2,353,373)	
2% State Program Management Operator Certification - BIL Supplemental Capitalization Grant	(612,016)	
1.9% Small System Technical Assistance (SMS) - BIL Supplemental Capitalization Grant	(578,199)	
1.7% Local Assistance - Sourcewater Protection - BIL Supplemental Capitalization Grant	(519,744)	
Subtotal Set-asides		(5,800,332)
Principal repayments and Loan Revenue *		\$26,668,433
Loan Interest Income*		\$1,482,397
Treasury Interest Income*		\$60,994
Total DW SRF Loan Program Project Funds Available		\$ 138,265,400
* Estimated Principal, Interest, and Treasury Interest for SFY 2022		

Table 1: DW SRF Financial Status

Tennessee SRF is currently using cash flow modeling which is a forecasting tool that incorporates all inflows and all outflows of the funds to provide an estimate of a state's

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capacity to make loans, ensuring the fullest possible utilization of all available SRF infrastructure financing resources.

### ***Uses of Funds***

The SDWA allows each state the flexibility to establish the allocation of funds from Capitalization Grants used for infrastructure loans, assistance to financially disadvantaged communities, and set-aside activities. The state, in turn, has the responsibility to best direct the funds to address water infrastructure problems.

The primary use of the Capitalization Grant, and state match funds is to provide low-interest loans and other financial assistance to municipalities and rural water districts for the construction of public water supply projects. This assistance can be provided as: a planning loan; planning and design loan; or construction loan. It is to be noted that not all drinking water compliance problems can be solved through capital financing of infrastructure improvements.

TDEC SRF has determined, based on projected total award and potential use of set-asides, the DW SRF will have \$14,119,520 in project loan funds available from the FFY 2022 Capitalization Grant and state match. The state is required, by section 1452(a)(2)(F) of the SDWA, to use fifteen percent (15%) of the FFY 2022 Project Funds to provide loan assistance to systems serving fewer than 10,000 persons to the extent that there are a sufficient number of eligible projects to fund. Additionally, America's Water Infrastructure Act (AWIA) of 2018 provisions and amendments to the SDWA require states to provide at least twelve percent (12%) and up to thirty-five percent (35%) of the federal fiscal year capitalization grant as subsidies for disadvantaged communities to the extent there are sufficient applications for loans. Tennessee's DW SRF Loan Program developed a small and disadvantaged community loan forgiveness process that prioritizes allocation of subsidy for disadvantaged communities with an ATPI of 50 or less.

### **Administrative and Technical Assistance**

The DWR intends to use up to 4% (\$1,250,120) of the FFY 2022 DW SRF Base Capitalization Grant and 4% (\$486,880) of the FFY2022 BIL General Supplemental Capitalization Grant for administrative support includes database development, salaries and benefits of employees; travel of staff relating to project management, conferences, seminars, and workshops; technical assistance contracts, training for state employees; general office supplies; equipment purchases (as needed), communication and printing, and rent of office space.

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## **Set-Aside Activities**

Sections 1452(g) and (k) of the Safe Drinking Water Act allow states to set aside up to 31% of the Capitalization Grant for specific activities. The eligible DW SRF set-aside types include administration and technical assistance (4%), small systems technical assistance (2%), state program management (10%) and local assistance and other state programs (15%). TDEC SRF intends to use \$5,800,332 total set-asides allowable under the law. Table 2 outlines the DWR funding source, program, amount of Base Capitalization Grant and BIL General Supplemental Capitalization Grant (both in percent and funds), and activities TDEC intends to fund through the set-aside allotment. Table 3 outlines the DWR funding source, program, amount of BIL LSL Capitalization Grant (both in percent and funds), and activities TDEC intends to fund through the set-aside allotment. Funds not expended in these categories by the end of the fiscal year will carry forward. The State of Tennessee is electing to reserve the right to these funds to utilize at a later date.

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Capitalization Grant	Division and Program	Set Aside %	Activities	Funds
BIL General Supplemental Capitalization Grant	DWR/SRF	4% Administration	DWSRF Loan Program administration, and database development	1,250,120
	DWR/Drinking Water Unit	7.5% State Program Management - Public Water System Supervision (PWSS)	Sanitary surveys, investigation, publications, laboratory support & certification	2,353,373
	DWR/FTC	2% State Program Management - Operator Certification	Operator certification program and database development	612,016
	DWR/FTC	1.9% Small System Technical Assistance (SMS)	Regulatory compliance, technical assistance to small communities	578,199
	DWR	1.7% Local Assistance	Source water protection, wellhead protection, CDP grant program development, source water protection loan program development	519,744
	<b>TOTALS</b>			
Base Capitalization Grant	DWR / SRF	4% Administration	DWSRF Loan Program administration, and database development	486,880
	<b>TOTALS</b>			<b>\$ 5,800,332</b>

Table 2: DWSRF Base and BIL General Supplemental Capitalization Grant Set-aside Activities

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The SDWA allows each state to set-aside these funds from its federal capitalization grant to support various drinking water programs including administration, technical assistance, state program management, and special activities. Outcomes from these activities are reported to EPA in the DW SRF Annual Reports.

### ***State Program Management***

The State of Tennessee intends to set aside 9.5% or \$2,965,389 of the FFY 2022 BIL General Supplemental Capitalization Grant for Public Water Supply Supervision and State Operator Certification.

#### Public Water Supply Supervision (PWSS)

- For Public Water System Supervision programs activities under Section 1443(a)
- To further develop and implement a Capacity Development Strategy under Section 1420
- To implement a Laboratory Certification Program

The PWSS program will use \$2,353,373 or 7.5% of the State Program Management set asides from the BIL General Supplemental Grant in SFY 2023. The grant will support PWSS program goals, objectives, and deliverables for SFY 2023. The database work will be covered by the BIL General Supplemental Grant. PWSS activities include continued implementation of the Enforcement Tracking Tool in conjunction with formal enforcement efforts, continue to manage and implement the laboratory certification program statewide, record keeping and evaluation of water quality data, and closely tracking monitoring and reporting requirements for all public water systems. The set-aside will also be used to provide the necessary training and travel expenses associated with the PWSS program and laboratory certification program. Other technical services and assistance to public water systems include addressing challenges associated with the managerial, technical, and financial capacity of public water systems. The PWSS program will continue to evaluate its success in assisting public water supply systems to achieve compliance with the SDWA. Results of the PWSS program will be provided in the DW SRF Annual Report.

TDEC DWR intends to use PWSS set-aside to purchase technical supplies along with field supplies necessary for the Drinking Water Program and to conduct the following activities:

- Review Drinking Water Engineering Plans
- Compliance Monitoring Data Management
- Technical Assistance
- Laboratory Certifications/Audits



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- Enforcement/Compliance
- Sanitary Surveys
- Area Wide Optimization Program/Capacity Development Training and Assistance
- Technical Meetings/Trainings
- Emerging Contaminants sampling and assessments – Cyanotoxins
- Regulatory adoption and implementation activities associated with the Lead and Copper Rule revision
- Research and identification of Drinking Water Database; looking for model that fits DWR business processes and requirements

The PWSS set-aside will also be directed towards salaries and benefits to retain approximately 26 positions in DWR for those who conduct drinking water-related work activities along with the time and travel. During SFY 2023, DWR will use the majority of the set-aside money to continue the existing level of activities related to Tennessee’s PWSS program. Our work efforts include incorporating capacity development activities into the technical assistance provided to Tennessee’s public water systems. In addition to continuing existing activities, DWR proposes to use set-aside money to continue to address issues raised by the 1996 amendments to SDWA along with continued implementation of the Revised Total Coliform Rule, SDWA updates and regulatory adoption and implementation activities associated with the Lead and Copper Rule Revision. The State plans to utilize this set-aside to administer rulemaking and implementation activities associated with the Lead and Copper Rule revision. Further, DWR has begun work identifying database needs across the drinking water compliance program. DWR has decided to review all drinking water compliance databases due to upcoming Lead and Copper requirements. In SFY 2023, DWR plans to develop a scope of work for a new database. The drinking water program will research databases used in other primacy programs, identify DWR needs, and prepare a project plan for use to solicit vendors that can assist DWR in database development starting in SFY 2024 using FFY 2023 BIL General Supplemental set-aside funding. For continuing support of electronic reporting and EPA’s efforts to utilize Compliance Monitoring Data Portal (CMDP), DWR continues to onboard laboratories. DWR currently has three labs that have approved users. DWR will work over the next 12-15 months to double or triple the number of laboratories using CMDP.

The following positions will perform the aforementioned activities:

- One Drinking Water Program Manager
- One Drinking Water Program Fellow
- Two Administrative Support Members

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- Three Drinking Water Engineers
- Six Drinking Water Laboratory Certification Officers
- Five Drinking Water Compliance and Data Management staff
- One Drinking Water Compliance Manager
- Four Area Wide Optimization Program staff
- One Division of Water Resources Drinking Water Database developer
- One Administrative Service Assistant
- One Environmental Consultant (AWOP/Cap Dev/QAQC) – to be hired (applying .5 yr salary)

Projected Activity	Projected Outputs
Technical Assistance Visits (Environmental Field Offices)	200
Drinking Water Laboratory Certifications	75
Drinking Water Laboratory Audits	40 audits
Engineering Plans reviewed	100% reviewed within 30 days of receipt
Enforcement / Compliance	150 Compliance Status correspondence
Data Management	Reports entered into SDWIS database within 60 days of receipt
Compliance Monitoring Data Portal Onboarding	6-9 laboratories
Database Planning and Design	One business document or draft Request for Proposal with cost estimates for FFY 2022 requests

Table 3: Projected activities scheduled for completion using PWSS set-aside funds

Operator Certification Program

The State of Tennessee intends to set aside 2% or \$612,016 of the FFY 2022 BIL General Supplemental Capitalization Grant for the Water Operator Certification Program. The Water Operator Certification Program is administered by the Water and Wastewater Certification Board and implemented by the Fleming Training Center (FTC) under the authority of the Water and Wastewater Operator Certification Act. The FTC Certification staff members

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manage over 4,000 licenses in water treatment and distribution while offering certification exams to over 1,000 applicants yearly. The set-aside will partially fund six positions to carry out the responsibilities and goals of the FTC.

The FTC provides four primary services to water and wastewater treatment systems and operators:

1. Training individuals to become water and wastewater system operators;
2. Administering the State water and wastewater operator certification program;
3. Providing Continuing Education classes and seminars to certified operators allowing them to meet their CEU requirements; and
4. Providing technical assistance to water and wastewater facilities/operators.

FTC has identified three funding goals for the SFY 2023 DW IUP:

1. Funding for administration of the Water Operator Certification program
2. Enhancement of the Operator Certification Database and public portal
3. Validated examination blueprints and examination questions for the Water Operator Certification Exams.

#### **Goal 1- Provide for administration of the Water Operator Certification Program**

The Operator Certification Program is supported by two full-time staff members with three additional staff members allocating time between the operator certification and training. The operator certification program is responsible for ensuring, through certification, that individuals are qualified to operate water systems. This is achieved by evaluating education and experience of operators for initial certification and ensuring compliance with continuing education requirements once certified.

#### **Goal 2- Development of Operator Certification Database**

Maintain and enhance the tracking capabilities of the Operator Certification Database. The Operator Certification Program will use public feedback to develop improvements to the online public portal. Development and implementation for enhancements to the Operator Certification Database and online public portal.

#### **Goal 3- Development of a Validated Operator Certification Examinations**

The Center for Organization and Human Resources Effectiveness, in affiliation with Middle Tennessee State University, has created an updated exam blueprint. They will create validated exam questions and examination forms before October 2022.

### ***Small Systems Technical Assistance***

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TDEC will set aside 1.9% or \$578,199 of the FFY 2022 BIL General Supplemental Capitalization Grant to provide technical assistance to PWSS serving 10,000 or fewer persons. These funds will support FTC staff, including funding two (2) full-time position and partial funding for six (6) full-time positions. Funds will be expended monthly across the fiscal year.

The Fleming Training Center intends to use this set-aside to provide training and technical assistance to public water supplies serving populations of fewer than 10,000. Instructors are available for both on-site and remote technical assistance. The training center provides both continuing education classes and operator training courses throughout the year across the state with emphasis on water treatment operations, operator math, water laboratory methods, and cross-connection control training.

### ***Local Assistance and Other State Programs***

The State of Tennessee intends to set aside 1.7% or \$519,744 of the FFY 2022 BIL General Supplemental Capitalization Grant for source water protection, wellhead protection, and to develop a set-aside assistance program for small or disadvantaged communities to further DWR's Capacity Development Strategy under 1420 of the SDWA as well as source water protection loans.

#### Source Water Protection Program

The State of Tennessee intends to use Local Assistance Set Aside Funds to be utilized to assist public water systems and enhance the Source Water Protection Program. The Source Water Protection Program will use \$159,640 of FFY 2022 BIL General Supplemental Capitalization Grant to fund one (1) full time position and partially fund one (1) full time position. In addition, the program will continue to support a contract with the United States Geological Survey for statewide Source Water Assessment and dedicated \$320,000 to that contract in FFY 2022.

#### Geographic Information Systems – Source Water Assessment

TDEC, DWR used FFY 2020 Local Assistance Set Aside Funds to work with partner divisions and the United States Geological Survey (USGS) to update the Source Water Assessment for the state of Tennessee. This assessment work will continue by using FFY 2022 funds to enhance the geographic information system model to evaluate physical parameters along with sources of potential contamination to assign vulnerability rankings to each public water system based upon these factors. The FFY 2022 additional funding will also be used to enhance public education and outreach to inform citizens and stakeholders of this continued work.

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### Real-time Groundwater Level Monitoring

TDEC is currently working with USGS to enhance the network of groundwater wells in the state. FFY 2020 funds were used to initiate this work and FFY 2022 funds will continue to support this initiative to expand the network of wells. The intent is to establish a more robust groundwater level monitoring network to aid in evaluating aquifer conditions at representative areas throughout the state. Prioritization for monitoring locations will be weighted by drought prone and historically affected areas. The information from these stations is intended to assist public water systems with establishing additional metrics for drought plan implementation and further research for water availability and capacity of public water systems.

### Expenditures and technical assistance to protect and update SWP areas

TDEC is currently working with USGS for technical assistance and funding for activities to protect source water areas and to delineate/update wellhead protection areas for public water systems. FFY 2022 BIL General Supplemental Capitalization Grant funds are proposed to be used to continue this cooperative work for the same purposes. These projects include hydrogeologic evaluations, surface water and groundwater modeling, and/or dye tracing to identify groundwater recharge areas for aquifers used by public water systems.

The following positions will perform the aforementioned activities:

- Drinking Water Consultant - (1)
- Environmental Scientist - (1)
- Partner agencies

Projected Activity	Projected Outputs
Source Water Assessment Update	1 Statewide – 782 Individual PWSs
Real-time Groundwater Level Monitoring	10 sites
Expenditures and technical assistance to protect and update SWP areas	Define recharge areas for some public water systems using springs

Table 4: Projected Source Water Protection program activities

### Wellhead Protection Program

The State of Tennessee intends to use Local Assistance Set Aside Funds to continue funding a position responsible for coordinating Wellhead Protection Program activities including:

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- Review Wellhead Protection Plans provided by utilities
- Provide technical assistance and guidance to utilities for developing Wellhead Protection Plans
- Work with partners in other agencies to prioritize source water protection conservation projects
- Create a database of potential contaminant sources from state and other agencies Geographic Information System (GIS) layers
- GIS analysis to examine potential sources of contamination within source water protection areas
- Work with interagency partners to update a statewide Source Water Assessment
- Assist internal and external customers with data requests regarding proximity of municipal wells and wellhead protection areas

This additional position has been integrated into the Drinking Water Unit to provide technical assistance for Well Head Protection Program implementation and assistance to public water systems. The position will be responsible for assisting in coordination of the Source Water Program, educational outreach, review of Source Water protection plans, steward of database required for the Source Water Assessment report update, and to help guide protection and conservation funding efforts with State Revolving Fund staff and partner agencies.

The following positions will perform the aforementioned activities:

- Drinking Water Wellhead Protection Program – Environmental Consultant - (1)
- Environmental Scientist – (1)
- Partner Agencies

Projected Activity	Projected Outputs
Wellhead Protection Plan Reviews	150 plans/year
Source Water Assessment Update	1 Updated Assessment
Conservation Project Coordination	10 sites/year
GIS analysis – internal/external customers	50 inquiries/year (estimated)

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Projected Activity	Projected Outputs
Education events	3 events/year

Table X: Projected Wellhead Protection program activities

Set-Aside Assistance Program

DWR will develop an assistance program for small or disadvantaged PWSs. The assistance program will focus on providing grants for capacity development programs and source water protection loans. During SFY 2023 staff from the drinking water program and the State Water Infrastructure Grants (SWIG) program will work together to create guidance documents, ranking systems, and priority list protocols for an assistance program that focuses on providing support to small or disadvantaged communities. SWIG staff time dedicated to this effort will cost \$38,604 and include partial funding for three (3) State Water Infrastructure Grants staff. SWIG will coordinate with existing drinking water program staff to create a framework for the assistance program.

TDEC anticipates launching the assistance program by SFY 2024. Prior to launch of the program DWR will publish outputs including guidance and program requirements, define eligible entities, and define project criteria. Launch of program will require education, outreach, and marketing to small or disadvantaged public water systems. DWR will work with our existing program assistance vendor (TAUD) to reach the desired audience. In addition, the new program will require development of a virtual portal for application submission and review. DWR will work with our TDEC Grants Management team to build a digital application and review process.

**Program Assistance Contracts**

Targeted Technical Assistance and Training for Small and Disadvantaged Communities

TDEC SRF will contract with the Tennessee Association of Utility Districts to develop a consolidated technical assistance contract to provide targeted technical assistance to distressed or disadvantaged communities. This contract will focus on issues with public water and wastewater systems; managerial, financial, and technical capacities for systems; assist in reducing occurrence of health-based drinking water violations; optimize resources and support to small and disadvantaged communities and systems across the state; develop new capacity to make full use of Federal Capitalization Grant set-asides for drinking water; and implement priorities under TN H2O. Technical assistance will be provided at no cost to



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eligible communities.

### ***BIL LSL Capitalization Grant Set-Aside Activities***

TDEC-DWR will use BIL Lead Service Line (LSL) set-asides to build internal capacity as well as external capacity to educate, identify and address LSL issues throughout the state. DWR intends to set-aside \$7,857,118 from FFY 2022 BIL LSL Grant for program implementation.

DWR proposes the development of LSL inventory and planning grants and LSL direct and indirect technical assistance efforts, both aimed at helping small and disadvantaged systems identify needs, fund project development, build capacity, and create training opportunities.

Capitalization Grant	Division and Program	Set Aside %	Activities	Funds
BIL LSL Capitalization Grant	DWR/ Drinking Water Unit	1% State Program Management - Public Water System Supervision (PWSS) LSL section	Develop LCRR program, investigation, publications, compliance, and inventory framework	\$478,093
	DWR	15% Local Assistance	LSLI grant program development and execution, LSL Replacement Plan framework and execution, LSL Planning and Design grants program for SDCs	\$7,379,026
	<b>TOTALS</b>			<b>\$7,857,119</b>

### ***State Program Management***

DWR intends to set-aside \$478,092 from FFY 2022 BIL LSL Capitalization Grant to use for program implementation. This effort will establish dedicated Public Water System Supervision (PWSS) staff and expand DWR's capacity by adding four (4) full time positions dedicated to assist PWSSs with new lead and copper rule compliance as well as establishing pathways for full LSL replacement.

DWR's Lead and Copper Rule Revision working group will identify small and disadvantaged systems with potential lead service line issues, provide education and training on LSL



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detection, and make recommendations on the replacement process. PWSS staff will coordinate with technical assistance providers, including FTC, to create targeted LSL technical assistance for small and disadvantaged communities that need help addressing LSL issues.

DWR Staff will provide compliance assistance to water systems to support the rapid development of lead service line inventories (LSLI), replacement plans, and education, and outreach material, all aimed at meeting the compliance deadline of October 16, 2024. We are estimating 480 water systems with 2.8 million connections (excluding schools and Child Care Facilities) needing compliance assistance with new Lead and Copper Rule Revisions (LCRR).

The PWSS LSL program goals are to provide regulatory oversight and technical assistance to public water systems preparing for the LCRR. Staff will be responsible for the following activities:

- Assisting PWSs maintain current LCR requirements and are preparing for LCRR rule adoption;
- Assist PWSs with accurate inventories all LSLs in their distribution systems;
- Develop TDEC's standard inventory/replacement program structure and methodology in accordance with EPA guidance;
- LSL Replacement Program development;
- Provide LSL assistance such as evaluating draft inventories, reviewing identification; planning, design, and replacement plans and other associated activities;
- Conduct, coordinate and develop public education and outreach materials;
- Provide input and review of the LSL grant program framework, including eligibility; ranking criteria, and electronic grant application process;
- Support small and disadvantaged systems with specific assistance for addressing LSL issues;
- Establish a data management schema for collection, evaluation, and reporting

The following positions will perform the duties:

- TDEC-Environmental Consultant 1 (1)
- TDEC-Environmental Scientist 3 (1)
- TDEC-Environmental Scientist 2 (1)
- TDEC-Environmental Protection Specialist 1 (1)

### ***Local Assistance***

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TDEC intends to set-aside \$7,379,026 from FFY 2022 conditional BIL LSL Grant to develop a grant assistance program for small or disadvantaged communities investigating and addressing lead service line issues and provide direct and indirect technical assistance for PWSs. This funding will be used to award PWSs funds to investigate lead service line issues in their service area, establish compliant inventories as well as provide dollars for planning and design for full LSL replacement. The LSLI investigation, inventory, and planning assistance program will allow the rapid identification and inventory of LSLs and ensure PWSs have a plan that will lead to a pipeline of projects for LSL replacement financed with SRF loans.

LCRR dedicated staff will work with SWIG to develop the LSLI assistance program. During SFY 2023 LCRR and SWIG staff will work together to create guidance documents, ranking systems, and priority list protocols for an assistance program that focuses on providing grants to small PWSs or disadvantaged PWSs. SWIG staff time (in addition to the four dedicated LCRR staff) to this effort will cost \$38,515 and include partial funding for three (3) State Water Infrastructure Grants staff which will coordinate with the drinking water program and LCRR staff to create a framework for the assistance program.

TDEC anticipates launching the assistance program by FFY 2023. Prior to launch of the program DWR will publish outputs including guidance and program requirements, define eligible entities, and define project criteria. Launch of program will require education, outreach, and marketing to public water systems. DWR will work with our existing program assistance vendor (TAUD) to reach the desired audience. In addition, the new program will require development of a virtual portal for application submission and review. DWR will work with our TDEC Grants Management team to build a digital application and review process.

Accurate inventories and plans ensure effective and efficient use of future BIL funds. Priority may be given to disadvantaged communities. The initial framework for an assistance program may include the following:

#### Development of LSLI Program

- LSLI with material details for all service connections in the distribution system;
- Public records review, physical inspections, statistical analysis, investigative sampling (not for compliance), locating and mapping LSLs;
- LSLI activities that follow minimum requirements set by Federal and State regulations and guidance;
- Improve or establish PWSs internal capacity to collect, digitize, maintain, and report data

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#### Development of LSL Replacement Plan Framework for PWSs

- Prioritization goals targeting known LSLs and LSL replacement for disadvantaged communities
- Complete Inventory of all LSLs in the distribution system
  - Method for identifying service lines of unknown material
  - Distribution of health effects and notices to all sites with unknown materials
- Strategies for informing customers before a full LSL replacement,
- An LSL replacement goal rate in the event of a lead trigger level exceedance,
  - Pitcher filter tracking and maintenance system
  - A procedure for customers to flush service lines and premise plumbing of particulate lead
- Non-compliance sampling of lead and copper after replacement service line

#### LSL Planning and Design Grants for Small or Disadvantaged Communities

- Follow minimum requirements set by Federal and State regulations and guidance;
- Full LSL replacement required;
- Planning and design must be for infrastructure projects;
- Public outreach and notification campaigns, including costs to obtain customer's consent;
- Option to hire contractors to assist in LSLI activities.

## Environmental Benefits

The State agrees to complete on a real-time basis the DW SRF PBR in accordance with the Procedures for Implementing Certain Provisions of the FFY 2021 Appropriation. The following information will be entered quarterly into the DW SRF PBR:

1. Type of GPR Project, if funded, (green infrastructure, water efficiency, energy efficiency environmentally innovative),
2. Amount of SRF loan and amount of GPR funding,
3. Brief description of the GPR project,
4. The amount of subsidy provided,
5. Population served by the project, and
6. Information on the Environmental Benefits of the SRF Assistance Agreements.

Copies of the PBR worksheets will be placed in the Annual Report.

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### **Annual Report Requirements**

Section 1452 of the SDWA requires the State to complete and submit an Annual Report within 90 days after the end of the fiscal year covered by the IUP. This report will contain detailed information on how the State has met the goals and objectives of the previous year as stated in the IUP and Capitalization Grant agreement. Additionally, the Annual Report identifies loan recipients (name and identification number), loan amounts and terms, green projects, projects receiving subsidization (principal forgiveness), amount of subsidy, similar details on other forms of financial assistance provided from DW SRF, population of loan recipient, and other such information as EPA may require.

### **Assurances and Specific Proposals**

The State shall provide the necessary assurances and certifications described in the Operating Agreement submitted as part of the Capitalization Grant Application. This Operating Agreement is the official agreement between the State and EPA.

Pursuant to Section 1452 of the SDWA, the State certifies that:

- The State has the authority to establish a DW SRF Loan Program project loan fund and to operate the DW SRF Loan Program in accordance with the SDWA
- The State will comply with its statutes and regulations
- The State has the technical capability to operate the program
- The State will accept Capitalization Grant funds in accordance with a payment schedule
- The State will deposit all Capitalization Grant funds in the DW SRF Loan Program project fund or set-aside account
- The State will deposit interest earnings and repayments into the DW SRF Loan Program project fund
- The State will use Generally Accepted Accounting Principles
- The State will have the DW SRF Loan Program project fund and set aside account audited annually in accordance with Generally Accepted Government Auditing Standards
- The State will adopt policies and procedures to assure that borrowers have a dedicated source of revenue for repayments
- The State will commit and expend funds as efficiently as possible, and in an expeditious and timely manner
- The funds will be used in accordance with the IUP

## **Drinking Water State Revolving Fund**

### **Intended Use Plan**

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- The State will provide EPA with an Annual Report
- The State will comply with all federal crosscutting authorities
- In addition, the State certifies that it will conduct environmental reviews on water system projects in satisfying the National Environmental Policy Act-like requirements. The State's Environmental Review Process procedures are contained in the approved Operating Agreement.
- The State publishes the draft Intended Use Plan for public comment annually on the SRF website and the DWR website. The State provides a 30-day public comment period followed by a public meeting where the details of the IUP are reviewed. Any public comments received during this period are responded to and posted as a public notice along with the updated IUP. Modifications are made to the IUP when needed and after appropriate public notice is given.
- The State opens the Solicitation for Drinking Water projects in both the winter and the summer of every year.

States are allowed to transfer up to 33% of the DW SRF Capitalization Grant into the Clean Water State Revolving Fund (CWSRF) or an equal dollar amount from the CWSRF into the DW SRF. 40 C.F.R. § 35.3555(c)(8). Tennessee reserves the right to transfer between these funds.

### **Amending the Intended Use Plan**

The SRF Loan Program reserves the ability to amend the IUP as needed to implement an efficient and effective program. Changes to the IUP that impact the administration of the program will be made public on the SRF website and through appropriate communication channels.

### **Appendix**

[DW Priority Ranking List](#)

[Sources and Uses Table](#)

## Drinking Water State Revolving Fund

### Intended Use Plan

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Appendix				
Drinking Water State Revolving Fund (DWSRF) Sources and Uses				
Administered By Tennessee Department Environment and Conservation - State Revolving Fund Loan Program				
State Fiscal Year July 1, 2022 - June 30, 2023				
Sources & Uses	Federal Contribution	State Contribution	DWSRF Fund	Total
<b>Funding Sources</b>				
Loan Repayments (P&I)	-	-	28,150,830	28,150,830
Investment Income	-	-	60,994	60,994
Banked Setasides	4,063,332	-	-	4,063,332
FFY 2022 Capitalization Grant	12,172,000	2,434,400	-	14,606,400
FFY 2022 BIL Capitalization Grant	31,253,000	3,125,300	-	34,378,300
<b>Total Funding Sources</b>	<b>\$ 47,488,332</b>	<b>\$ 5,559,700</b>	<b>\$ 28,211,824</b>	<b>\$ 81,259,856</b>
<b>Funding Uses</b>				
Project Disbursements	41,688,000	5,559,700	28,211,824	75,459,524
Setasides Spending	4,063,332	-	-	4,063,332
FFY 2022 Administration	1,737,000	-	-	1,737,000
<b>Total Funding Uses</b>	<b>\$ 47,488,332</b>	<b>\$ 5,559,700</b>	<b>\$ 28,211,824</b>	<b>\$ 81,259,856</b>