Texas Water Development Board

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AGENDA ITEM MEMO

BOARD MEETING DATE: August 10, 2023

TO: Board Members

THROUGH: Jeff Walker, Executive Administrator
Ashley Harden, General Counsel
Jessica Peña, Deputy Executive Administrator

FROM: Mark Wyatt, Director, Program Administration & Reporting

SUBJECT: Clean Water State Revolving Fund Emerging Contaminants Intended Use Plan

ACTION REQUESTED

Consider approving the State Fiscal Year (SFY) 2023 Clean Water State Revolving Fund (CWSRF) Emerging Contaminants Intended Use Plan (IUP)

BACKGROUND

The Infrastructure Investment and Jobs Act of 2021 (IIJA) appropriated capitalization grant funds for Federal Fiscal Years (FFY) 2022 to 2026 to reduce exposure to perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other emerging contaminants through drinking water and to help address discharges through wastewater and, potentially, nonpoint sources.

The main categories of emerging contaminants for the CWSRF program funding include, but are not limited to:

- PFAS and other persistent organic pollutants;
- Biological contaminants and microorganisms;
- Compounds of pharmaceuticals and personal care products;
- Nanomaterials; and
- Microplastics / Nanoplastics.

This IUP covers the CWSRF capitalization grant funds allocated to Texas from FFY 2022 appropriations in the amount of $4,274,000, less $1,077,040 transferred to the Drinking Water State Revolving Fund (DWSRF) FFY 2022 emerging contaminants program due to limited CWSRF program demand, for a total of $3,196,960. Sufficient funds are being

retained for all CWSRF Emerging Contaminants project proposals to be funded at the requested amount, although any funding provided would still be dependent upon the outcome of TWDB's review of the project details in a submitted application.

The appropriations requires the entire amount allocated to project funding be provided as additional subsidization, which will be in the form of principal forgiveness. A total of $3,026,000 is available for projects under this IUP as principal forgiveness.

For a project or activity to be eligible under this special appropriation, it must be otherwise eligible under the Clean Water Act and the primary purpose must be to address emerging contaminants.

Program Highlights

a) As required by law, all project funding will be provided as additional subsidization, which will be in the form of principal forgiveness. All federal requirements apply to all project funding;

b) Prioritizes proposals that have identified and will address PFAS. Projects that have identified emerging contaminants other than PFAS will be a lower priority. This is consistent with the federal appropriations;

c) Prioritizes project proposals that request construction funding. This will ensure projects move forward in a timely manner and will allow a faster draw-down of Emerging Contaminants grant funds which will require invoices from Emerging Contaminants projects; and

d) Within those that have identified and will address PFAS or other emerging contaminants as well as requested construction funding, further prioritizes:

   i. Projects that address the removal of emerging contaminants from treated wastewater/stormwater effluent that will eventually enter a drinking water treatment plant;

   ii. Projects that address the removal of emerging contaminants from treated wastewater/stormwater effluent that will be beneficially reused for agricultural irrigation, potable water supply, groundwater replenishment, industrial processes, or environmental restoration;

   iii. Projects that will provide first-time service to connections currently un-served by a central wastewater plant, and eliminate emerging contaminants, originating from the on-site waste systems from entering the watershed;

   iv. Disadvantaged communities or small systems consistent with the DWSRF Emerging Contaminants program;

   v. Rural projects; and

   vi. Smaller systems based on the number of connections.

Eligible Project Proposals

The TWDB invited entities to submit project proposals for this special funding from March 22 until May 23, 2023. As part of the solicitation for projects, a draft IUP narrative was provided for public comment.

The TWDB received five eligible project proposals requesting $3,026,000. No proposals received were considered ineligible.

PUBLIC REVIEW, HEARING, AND COMMENTS

A second opportunity was provided for public comment on the draft IUP, this time with the proposed project priority lists included, from June 29 to July 17, 2023. A public hearing was conducted in person on July 17, 2023, at 9:30 A.M. in Austin.

The TWDB reviewed and considered the two public comments received. The two comments were on the general program. No changes were made to the IUP based on the comments.

The public comment received during the public comment periods and the TWDB's response are shown in Attachment 1.

KEY ISSUES

The TWDB has sufficient funds for all CWSRF Emerging Contaminants project proposals to be funded at the requested amount, subject to further review. The TWDB will move forward expeditiously with the beneficial work of reducing exposure to PFAS and other emerging contaminants projects within Texas.

Following approval of the IUP, the TWDB will apply to the EPA for the grant funds, followed afterwards by invitations to certain entities on the IUP's Project Priority List to submit a full application for review and consideration.

RECOMMENDATION

The Executive Administrator recommends approval of the SFY 2023 CWSRF Emerging Contaminants IUP with the ability to make non-substantive changes if necessary.

Attachments:

1. Response to public comments on the draft SFY 2023 CWSRF Emerging Contaminants IUP
2. Recommended Final SFY 2023 CWSRF Emerging Contaminants IUP

Texas Water Development Board

Response to Comments on the State Fiscal Year 2023 Clean Water State Revolving (CWSRF) Fund Emerging Contaminants Draft Intended Use Plan (IUP)

The following provides a summary of the public comments received during the public comment period from June 29, 2023, to July 17, 2023, the Texas Water Development Board (TWDB) responses, and any changes to the recommended final SFY 2023 CWSRF Emerging Contaminants IUP.

(No comments were received during the first public comment period.)

General Comments

Comment submitted by: Anita Keese, Environmental Sciences Unit Director, Texas Department of State Health Services Laboratory
Comment Date: July 13, 2023

Comment:
Texas Department of State Health Services (DSHS) has been preparing for an anticipating the upcoming emerging contaminant requirements, expected to be rolled out in 2025. TCEQ contracts with a sampler and sends approximately 60% of the state's samples to us to analyze. We have been researching available funding opportunities for us to purchase equipment and equip our space to initiate PFAS sampling. This project may be eligible under the Clean and Drinking Water State Revolving Fund, but not according to the Drinking Water State Revolving Fund Intended Use Plan Emerging Contaminants Funding SFY 2023 plan on your website, and we are a critical link to the entire program. We ask for clarify and/or flexibility to accommodate equipping eligible laboratories in order to allow us to apply for this or other eligible funding.

Response:
The TWDB appreciates receiving the comments for the 2023 CWSRF Emerging Contaminants IUP. The project may be eligible under the program depending on the specifics of the ultimate use of the activity. While water quality monitoring activities (including monitoring of PFAS associated with National Pollutant Discharge Elimination System permit or pretreatment requirements) at publicly owned treatment works are generally not eligible, monitoring for the specific purpose of project development, including planning, design, and construction, is eligible. Monitoring in this capacity, and within a reasonable timeframe, can be integral to the identification of the best solutions (through an alternatives analysis) for addressing emerging contaminants and characterizing discharge and point of disposal.

Change:
None.

Comment submitted by:

Danielle Goshen; Policy Specialist/Counsel; National Wildlife Federation
Marisa Bruno; Water Program Manager; Hill Country Alliance
Adrian Shelley; Texas Director; Public Citizen
Becky Smith; Texas Director; Clean Water Action
Kristen Schlemmer; Legal Director and Waterkeeper; Bayou City Waterkeeper
Annalisa Peace; Execute Director; Greater Edwards Aquifer Alliance
Joanie Steinhaus; Ocean Director; Turtle Island Restoration Network
Hillary Lilly; External Affairs Director; The Nature Conservancy Texas
Stefania Tomaskovic; Ph.D.; Coalition Director; Coalition for Environment, Equity & Resilience (CEER)

Comment Date: July 17, 2023

Comment:

This letter provides the formal comments on behalf of the undersigned organizations on the Draft SFY 2023 Clean Water State Revolving Fund (CWSRF) Intended Use Plan (IUP) for Emerging Contaminants. The Texas Water Development Board (TWDB) has undergone immense growth in policy and financial responsibilities over the last decade. This trend will continue with the $2.9 Billion in new federal funds for the Clean Water and Drinking Water State Revolving Funds (CWSRF and DWSRF, or SRFs) available to the TWDB via the Infrastructure Investment and Jobs Act (IIJA, also referred to as the Bipartisan Infrastructure Law) over the next five years.

Addressing emerging contaminants like per- and polyfluoroalkyl substances or PFAS is a pressing issue that we need to urgently address – as they compromise the health of our water supplies. According to the CDC, high levels of certain PFAS may lead to birth defects, increased risk of high blood pressure or pre-eclampsia in pregnant women, risk of cancers, and decreased vaccine response in children, among others.[1] Alarmingly, these chemicals do not seem to break down, and persist in water, soil, and even human blood – earning them the nickname of "forever chemicals."

According to the Union of Concerned Scientists, nearly 500,000 Texans live within three miles of former and active military bases where firefighting foam has caused PFAS contamination levels hundreds to thousands of times higher than what the CDC deems safe.[2]

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[1] CDC, What are the Health Effects of PFAS? Available at: https://www.atsdr.cdc.gov/pfas/health-effects/index.html?CDC_AA_refVal=https%3A%2F%2Fwww.atsdr.cdc.gov%2Fpfas%2Fhealth-effects.html.

[2] Union for Concerned Scientists, A Toxic Threat: Government must act now on PFAS – Contamination at military bases (September 25, 2018), available at: https://www.ucsusa.org/resources/toxic-threat-pfas-contamination-military-bases.

- **PFAS 3,255 times the safe exposure level** found at Former Kelly Air Force Base near San Antonio with **129,998 people** living within 3 miles of this site according to the
- U.S. Census Bureau;
- **PFAS 61,818 times the safe exposure level** found at Joint Base San Antonio-Lackland, Randolph, Ft Sam Houston, Camp Bullis, near San Antonio with **113,128 people** living within 3 miles of this site according to the U.S. Census Bureau;
- **PFAS 906 times the safe exposure level** found at Former Bergstrom Air Force Base near Austin, with **47,399 people** living within 3 miles of this site according to the
- U.S. Census Bureau; and
- **PFAS 113,364 times the safe exposure level** found at Dallas Navy base, near Dallas with **180,597 people** living within 3 miles of this site according to the U.S. Census Bureau.

PFAS contamination in our water sources, therefore, is a significant concern and should be immediately addressed. We appreciate and support the Intended Use Plan for SFY 2023 to address emerging contaminants in Texas.

I. *Increase Technical Assistance during the next round of CWSRF emerging contaminants to ensure communities know about the opportunity and how to apply for and receive funding*

Due to lack of demand, $1,077,040 from the CWSRF emerging contaminants program is proposed to be transferred to the DWSRF FFY 2022 emerging contaminants program – leaving a total of $3,196,960 in the CWSRF program. Through the CWSRF emerging contaminant program, Texas can address emerging contaminants in our water resources, through wastewater, stormwater, and nonpoint sources. The lack of demand for the CWSRF emerging contaminant program is likely due to insufficient knowledge around emerging contaminants in wastewater, stormwater, and nonpoint sources. However, due to the need to protect our source waters and water resources, which provide habitat for wildlife and serve as the waters in which we swim, fish, and recreate, we strongly recommend the TWDB increase its outreach efforts to communities to increase participation in this funding source.

II. *Streamline Rating Criterias 6-8 in order to eliminate redundancy and potential over-prioritization of small and rural projects*

Up to three rating criteria prioritize rural or small systems. This includes the following criteria:

- 6. Disadvantaged Community or Small System – 30 points;
- 7. A rural project based on population – 10 points; and
- 8. System size based on connection – up to 15 points.

While we believe that prioritizing projects in small/rural systems is important, we believe that over prioritizing these communities could result in putting other communities that are unable to pay for projects addressing emerging contaminants at too great a disadvantage. Therefore, we recommend streamlining rating criterias 6 through 8. We propose two options to be able to achieve this, below.

Option 1:

For example, rating criteria #6, should only consider disadvantaged communities, then rating criteria #7 could consider rural projects based on population OR system size based on connection. This would look like the following:

- 6. Disadvantaged Community – 30 points; and
- 7. A rural project based on population OR small system based on number of people served or system size based on connections – 15 points.

Option 2:

Alternatively, Rating criteria #7 could stay as is, and criteria #6 and #8 could be combined to look like the following:

- 6. Disadvantaged Community – 30 points;
- 7. A rural project based on population – 10 points; and
- 8. Small systems based on number of people served (fewer than 25,000 people) OR system size based on connection – up to 15 points.

While both of these options eliminate redundancies in prioritizing small systems, Option 2 gives points separately for both small and rural projects.

III. *Consider adding additional rating criteria aimed prioritizing projects in areas with large populations of persons under 18 years of age, distance from military bases, distance from fracking sites, and other vulnerable subpopulations*

There are numerous subpopulations that are particularly vulnerable to PFAS exposure. The EPA has identified children, pregnant parents, and some industrial workers as particularly vulnerable subpopulations. While we are not aware of statewide data on the second two of these subpopulations, the ACS collects data on percent of persons under 18 years of age. We believe that prioritizing communities with large populations under 18 years of age will better target communities most at risk to PFAS exposure, and therefore those that will benefit most from the CWSRF Emerging Contaminant program.

Additionally, as noted above, distance from former and current military sites correlates with PFAS exposure, due to the use of firefighting foam on bases. We recommend adding a rating criteria for distance from military bases to address these areas of high exposure.

The TWDB should also consider rating projects based on distance from oil and gas drilling sites, as it has been reported that there is wide use of PFAS in oil and gas drilling.[3] Over the past decade, according to a report by the Physicians for Social Responsibility, oil and gas companies in Texas have pumped at least 43,000 pounds of the PFAS into more than 1,000 fracked oil and gas wells across the state.[4] Additional rating criteria aiming at prioritizing projects in other vulnerable communities should also be considered.

Thank you for the opportunity to submit these comments. We hope these recommendations provided above are taken into consideration and look forward to any future discussions with the TWDB.

[3] Texas Tribune, Thousands of pounds of "forever chemicals" have been injected into Texas oil and gas wells, study finds (March 27, 2023), available at: https://www.texastribune.org/2023/03/27/texas-fracking-oil-gas-wells-pfas-report/.

[4] Dusty Horwitt, J.d., Barbara Gottlieb, and Gary Allison, *Physicians for Social Responsibility,Oil and Gas Companies Used PFAS in Texas Wells; Extent of Use Obscured by Six Billion Pounds of "Trade Secret" Chemicals* (February 2023). Available at: https://psr.org/wp-content/uploads/2023/02/fracking-with-forever-chemicals-in-texas.pdf.

Response:
The TWDB appreciates receiving the comments for the 2023 CWSRF Emerging Contaminants IUP. The TWDB looks forward to working with all the organizations that commented on further outreach highlighting the benefits of implementing a project under this CWSRF Emerging Contaminants program in following four years. The goal of the TWDB is to fully utilize the CWSRF Emerging Contaminants allotment without the necessity of transferring funds to the DWSRF Emerging Contaminants program to retain the funds for Texas.

I. Streamline Rating Criterias 6-8 in order to eliminate redundancy and potential over-prioritization of small and rural projects – The intent of the rating criteria regarding system size and rural classification is to prioritize projects serving communities that generally have fewer resources to address PFAs and other emerging contaminants, which is typically an expensive and complex process. The TWDB recognizes that small and rural systems are not the only systems that need to address these contaminants and need financial assistance to do so. Given the capacity of this current round of funding, projects for larger/urban systems should still be able to receive financial assistance from this program. As part of the planning process for future rounds of funding for this program, TWDB evaluates all rating criteria to ensure its effectiveness of meeting the goals of the program and the needs of Texas water systems.

II. Consider adding additional rating criteria aimed prioritizing projects in areas with large populations of persons under 18 years of age, distance from military bases, distance from fracking sites, and other vulnerable subpopulations – Thank you for this comment. When determining rating criteria, TWDB takes into consideration the ability of applicants to acquire the information needed to fill out the application and not make it so burdensome that some entities don't apply due to the resources needed to acquire that information. While some entities may already track this information and have it readily available, many entities do not, and require a significant amount of staff resources or expenses to get this information. As part of the planning process for future rounds of funding for this program, TWDB evaluates all rating criteria to ensure its effectiveness of meeting the goals of the program and the needs of Texas water systems.

Change:
None.

Clean Water State Revolving Fund

Intended Use Plan

Emerging Contaminants Funding

SFY 2023

(FFY 2022 Allotment)

Effective Date: August 10, 2023

Texas Water Development Board | 1700 N. Congress Ave. Austin, Texas 78701 | www.twdb.texas.gov

Contents

Texas Water Development Board rules governing the Clean Water State Revolving Fund program (Texas Administrative Code, Title 31, Part 10, Chapter 375) may be accessed online at http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=31&pt=10&ch=375

Clean Water State Revolving Fund
Acronyms

ACS	American Community Survey
AIS	American Iron & Steel
AMHI	Annual Median Household Income
BABA	Build America, Buy America Act, 2021
CWA	Clean Water Act
CWSRF	Clean Water State Revolving Fund
DWSRF	Drinking Water State Revolving Fund
EPA	Environmental Protection Agency
FFY	Federal Fiscal Year
IIJA	Infrastructure Investment and Jobs Act, 2021
IUP	Intended Use Plan
NEPA	National Environmental Policy Act
PIF	Project Information Form
POTW	Publicly Owned Treatment Works
PPL	Project Priority List
SFY	State Fiscal Year
SRF	State Revolving Fund
TCEQ	Texas Commission on Environmental Quality
TWDB	Texas Water Development Board
WAP	Watershed Action Planning
WRRDA	Water Resources Reform and Development Act of 2014

I. Overview

The Infrastructure Investment and Jobs Act, 2021, Pub. L. 117-58 (IIJA) appropriated capitalization grant funds for Federal Fiscal Years (FFY) 2022 to 2026 to reduce exposure to perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other emerging contaminants through drinking water and to help address discharges through wastewater and, potentially, nonpoint sources.

The main categories of emerging contaminants for the CWSRF program funding include, but are not limited to:

- Perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other persistent organic pollutants;
- Biological contaminants and microorganisms;
- Compounds of pharmaceuticals and personal care products;
- Nanomaterials; and
- Microplastics / Nanoplastics.

This Intended Use Plan (IUP) covers the CWSRF capitalization grant funds allocated to Texas from FFY 2022 appropriations in the amount of $4,274,000, less $1,077,040 transferred to the DWSRF FFY 2022 emerging contaminants program due to limited CWSRF program demand, for a total of $3,196,960. The appropriations require the entire amount allocated to project funding be provided as additional subsidization, which will be in the form of principal forgiveness. A total of $3,026,000 is available for projects under this IUP as principal forgiveness.

For a project or activity to be eligible under this special appropriation, it must be otherwise eligible under section 603(c) of the Clean Water Act and the primary purpose must be to address emerging contaminants.

II. Background

In 1987 Congress passed federal amendments to the CWA that established the CWSRF program. The Texas Water Development Board (TWDB) is authorized by state law to administer this program for Texas. CWSRF is authorized by the CWA to provide financial assistance for the construction of publicly owned treatment works; the funding of nonpoint source projects; and the funding of estuary protection projects. In addition, the Water Resources Reform and Development Act (WRRDA) of 2014 and the America's Water Infrastructure Act of 2018 increased the types of projects eligible under the CWSRF. The Water Infrastructure Improvements for the Nation Act made changes to eligibility for additional subsidization.

The IIJA appropriated supplemental capitalization grant funds for Federal Fiscal Years (FFY) 2022 to 2026 for general activities, lead service line replacement, and emerging contaminants. The SFY 2023 IUP covering general activities using the FFY 2022 annual and IIJA appropriations was effective October 5, 2022. The draft IUP covering Lead Service Line Replacements is available for comment and proposed projects may be submitted through May 23, 2023.

III. Projects to Fund

A. Eligible Applicants

Applicants eligible to apply for assistance include:

- Wastewater treatment management agencies, including interstate agencies and water supply corporations that have been designated and approved as a management agency in the Texas Water Quality Management Plan
- Cities, commissions, counties, districts, river authorities, or other public bodies created by or pursuant to state law that have authority to dispose of sewage, industrial waste, or other waste
- Intermunicipal, interstate, or State agencies
- Authorized Indian tribal organizations
- Private entities for nonpoint source projects or estuary projects only
  (A water supply corporation that has been designated and approved as a management agency in the Texas Water Quality Management Plan is considered a "municipality" and is therefore eligible for funding for Publicly Owned Treatment Works and other activities.)

  Recipients eligible to receive assistance are dependent on project type and are defined in section 603(c) of the Clean Water Act.

B. Eligible and Ineligible Use of Funds

For a project or activity to be eligible, it first must be otherwise eligible under section 603(c) of the Clean Water Act and the primary purpose must be to address emerging contaminants. Section 603(c) of the Clean Water Act [33 USC §1383(c)] provides the CWSRF program with a broad range of project eligibilities including the construction of publicly owned treatment works, stormwater, management, and nonpoint source pollution control. Only capital costs (such as construction activities, equipment purchase) are eligible. The CWSRF cannot fund operation and maintenance activities, including monitoring, unless the monitoring is an integral part of the planning and design for a capital project. Planning and design for capital projects, as well as broader water quality planning where there is a reasonable expectation that the planning will result in an eligible capital project, are eligible.

Examples of eligible project costs under the twelve CWSRF program eligibilities under section 603(c) of the Clean Water Act include planning, acquisition, design, and construction of projects to:

- **Projects at wastewater treatment facilities**: Installation of technology to treat for PFAS and other emerging contaminants at publicly owned treatment works.
- **Water reuse:** Potable and non-potable water reuse/reclamation projects that may be applying advanced treatment (e.g., reverse osmosis, granulated activated carbon, or ion exchange) to remove PFAS or other emerging contaminants are eligible.

- **Stormwater:** In areas that are impaired or impacted by emerging contaminants based on previous monitoring efforts, projects that can trap and/or treat the contaminants in runoff prior to reaching waterbodies or instream treatment or removal may be eligible. Some examples include:
  - Construction of structures at industrial facilities to cover PFAS-containing materials that would otherwise be exposed to and transported in stormwater.
  - Development of a stormwater plan to identify capital projects that address emerging contaminants.
  - Purchase and installation of sampling equipment for industrial and municipal stormwater.
  - Purchase and installation of mesh screens and containment systems designed to capture and remove microplastics from industrial and municipal stormwater.
  - Installation of stormwater controls designed to filter and remove microplastics from stormwater.
  - Purchase of a vacuum or vacuum-type system to pick up microplastics to prevent flushing into stormwater.
  - Installation of stormwater controls designed to collect and capture emerging contaminants in stormwater discharges.
- **Non-point source projects:** Eligible nonpoint source projects are capital projects that support the implementation of a current EPA approved state nonpoint source management program plan or nine-element watershed-based plan established under Section 319 of the Clean Water Act and may be publicly or privately owned.
  - **Landfills**: Eligible landfill projects could include landfill closure (e.g., capping) or landfill runoff and leachate collection and treatment that will reduce runoff contaminated with PFAS or other emerging contaminants. The modification/expansion of existing or construction of new publicly owned landfills (local and regional) primarily designed and permitted (per state and federal regulations) to accept publicly owned treatment works biosolids with emerging contaminants.
  - **Surface Water Protection and Restoration:** Projects that address emerging contaminants in waterbodies including:
    - equipment for the physical or chemical removal of Harmful Algal Blooms, for example, strategically placed aeration blowers to remove and control algal blooms or flocculant-based methods to facilitate algae removal;
    - Projects that can skim surface water to remove microplastics along with other plastic pollutants

Examples of ineligible project costs include:

- If the primary purpose is not to address emerging contaminants.
- Projects that address contaminants with water quality criteria established by EPA under Clean Water Act section 304(a), except for PFAS are eligible for CWSRF program emerging contaminants funds.
- Operation and maintenance activities, including monitoring, unless the monitoring is an integral part of the planning and design for a capital project.

Planning and assessment activities

Planning and design for capital projects, as well as broader water quality planning, are eligible provided there is a reasonable expectation that the planning will result in a capital project. For example, funding can be used for preconstruction activities to help prepare planning, preliminary engineering, and alternatives analysis documents. Funding may also be used to procure and install monitoring equipment (e.g., auto samplers).

Monitoring

While water quality monitoring activities (including monitoring of PFAS associated with National Pollutant Discharge Elimination System (NPDES) permit or pretreatment requirements) at publicly owned treatment works are generally not eligible, monitoring for the specific purpose of project development (planning, design, and construction) is eligible. Monitoring in this capacity, and within a reasonable timeframe, can be integral to the identification of the best solutions (through an alternatives analysis) for addressing emerging contaminants and characterizing discharge and point of disposal. Though ideally the planning and monitoring for project development would result in a CWSRF-eligible capital project, in some instances, the planning could lead to outcomes other than capital projects to address the emerging contaminants. For nonpoint source projects, funding may also be used to assess project effectiveness after construction.

Examples of eligible planning and monitoring activities/costs could include:

- Purchase of monitoring or laboratory analysis equipment.
- Monitoring to characterize stormwater or wastewater to inform an engineering report and the identification and selection of the appropriate treatment technology/project alternatives. Wastewater characterization may already be a current requirement in some states for wastewater treatment system project planning.
- Monitoring of wastewater influent/effluent/sludge to determine the fate of PFAS, antimicrobial resistant bacteria, or other emerging contaminants, to inform the identification and selection of the appropriate treatment technology.

IV. Amount Available

1. Allocations

A total of $3,026,000 is available for projects under this IUP, all in the form of principal forgiveness. No origination fees will be assessed.

2. Allocation of Grant Funds, including Additional Subsidization:

	Emerging Contaminants	% of Grant
CWSRF FFY 2022 (SFY 2023) Allotment	$4,274,000	
less TWDB Administration (including Project Management System) *	$170,960	4%
Total	$4,103,040	
Transferred excess over projects to DWSRF Emerging Contaminants	$1,077,040	
Total Principal Forgiveness Allocated to Projects	**$3,026,000**	
* Administration based on original grant allotment of $4,274,000 before transfer to DWSRF		

V. Funding Options and Terms

Equivalency projects (Federal Requirements) - All projects will be considered equivalency projects, which must follow all federal requirements commonly known as “cross-cutters”. More information on the federal cross-cutters may be found in Appendix E.

1. Funding Option Available:

Entities listed on the Project Priority Lists (PPLs) may be invited to apply for the following funding option.

Emerging contaminant project funding

This funding is available to any eligible recipient. This funding option offers 100 percent principal forgiveness.

2. Federal Requirements on Available Funds

All funds are subject to certain federal requirements such as the (a) Davis-Bacon Act prevailing wage provision, (b) National Environmental Policy Act (NEPA)-like environmental review, (c) Generally Accepted Accounting Principles, (d) Cost and Effectiveness Analysis (for municipality or intermunicipal, interstate, or State agencies only), and (e) Build America, Buy America. These CWSRF funds must follow all federal cross-cutters and EPA's signage requirements. (see Appendix E for details of Federal Requirements)

VI. Goals

The primary goal of the Texas CWSRF program is to restore and maintain the chemical, physical, and biological integrity of the state's waters by preventing the discharge of pollutants. In addition, the overall goals of the CWSRF program are to prevent the discharge of pollutants from point and nonpoint sources; identify and provide funding for maintaining and/or bringing publicly owned treatment works into compliance with EPA clean water standards; to support affordable and sustainable wastewater treatment processes; and to maintain the long-term financial health of the program. Goals specific to the emerging contaminants funding in this IUP are listed below.

A. Short-Term Goals

1. Fund eligible project proposals to address emerging contaminants up to the amount of funding available.
2. Prioritize proposals that have identified and will address perfluoroalkyl and polyfluoroalkyl substances (PFAS).
3. Prioritize project proposals that request construction funding.
4. Provide outreach to systems within Texas on the availability of this funding to address emerging contaminants.
5. The TWDB and TCEQ will collaborate on the deployment of these funds.

B. Long-Term Goals

1. Use the emerging contaminant grant funds provided to Texas to fund project proposals to address identified emerging contaminants projects eligible for assistance with an ongoing priority for addressing perfluoroalkyl and polyfluoroalkyl substances (PFAS).

2. To the extent eligible project proposals are received, use all the emerging contaminant funds allotted to Texas to improve public health and enhance the objectives of the Clean Water Act.

3. The TWDB and TCEQ will collaborate on the deployment of these funds in a manner that will provide the most benefit to public health and enhance the objectives of the Clean Water Act.

VII. Participating in the CWSRF Program

A. Solicitation of Project information

Project information was solicited from eligible entities across the state using direct emails, notices posted on the TWDB website, and regional financial assistance workshops held throughout the State. Potential applicants submitted Project Information Forms (PIFs) by the response deadline of in Appendix A.

The required information submitted on a PIF consisted of:

- A detailed description of the proposed project.
- A list of the emerging contaminants that the project will address (if emerging contaminants have been identified, applicant needs to provide documentation of the presence)
- A map(s) showing the location of the service area.
- An estimated total project cost that is certified by a registered professional engineer if project costs are greater than $100,000.
- A checklist and schedule of milestones to determine a project's readiness to proceed to construction.
- Information necessary to rank the project:

(a) Whether there are identified perfluoroalkyl and polyfluoroalkyl substances (PFAS) that will be addressed by the proposed project
(b) Whether there are other identified emerging contaminants on any of EPA's Contaminant Candidate Lists (CCLs) that will be addressed by the proposed project.
(c) Whether the proposed project requests funds for the construction phase
(d) Whether the project will remove emerging contaminants from downstream uses and if the project will provide first time service to un-served connections that have emerging contaminants in their existing on-site wastewater systems
(e) Project beneficiary area's Annual Median Household Income (and if seeking disadvantaged community status, all the required information).
(f) Project beneficiary area's unemployment rate
(g) Project beneficiary area's population change percentage
(h) System size – number of connections and population served.

- Signature of the applicant's authorized representative.
- Additional information detailed within the solicitation for projects as needed to establish the priority rating.

- Any survey being used for income determination must be conducted within five years of the date the TWDB receives the PIF.

B. Evaluation of the Project Information Received and Priority Rating System

All PIFs are evaluated by the TWDB and projects determined to be eligible for funding are scored and ranked according to the established rating criteria. The scores are based on information received by the established PIF deadline. Throughout the evaluation process, entities are contacted by staff if additional information was needed.

The TWDB performed the priority rating of projects by assigning points for projects that addressed factors provided in Appendix C

C. Ranking and Creation of the Project Priority List

Each project submitted by the initial deadline and determined to be eligible is ranked from highest to lowest by the combined rating factors and included on the PPL. In the event of ties in the rating, priority is given to the project serving the fewest connections. Project information submitted after the PIF deadline is not considered for rating purposes prior to adoption of the initial PPL. Following approval of the IUP, changes to a ranked project that result in a project no longer addressing the issues for which it was rated will require the project to be re-rated and re-ranked. Changes in the project that do not trigger re-rating and re-raking are:

1. The applicant for a proposed project changes but the project does not change;

2. The number of participants in a regional project changes and the change does not result in a change to the rating; or

3. The fundable amount of a proposed project does not increase by more than 10 percent of the amount listed in the approved IUP. The Executive Administrator may waive the 10 percent limit to incorporate additional elements to the project; however, any Additional Subsidization awarded may not exceed the original IUP amount's allocation.

Based on a review of readiness to proceed to construction, the TWDB determined which phases would be eligible to receive funding. The phases indicated on the TWDB invitation represent the phases deemed eligible based on that review.

D. Bypassing Projects

The TWDB's Executive Administrator may decide to bypass, or skip, higher ranked projects in favor of lower ranked projects to ensure that funds available are utilized in a timely manner, that statutory and capitalization grant requirements are met. In addition, if an entity is offered funding for any project that has an interrelated project ranked lower on the list, the Executive Administrator has discretion to also offer funding for the interrelated project. Reasons for bypassing projects are discussed in Appendix F.

E. Phases for Invited Projects

1. Pre-Design Funding Option (or Planning, Acquisition, Design and Construction Funding)

The pre-design funding option allows an applicant to receive a single commitment for all phases of a project. The construction portion of the project must be deemed ready to proceed before funds for the construction phase will be released.

2. Construction Funding Only

Projects that were determined to be ready to proceed to construction based on the current status of their planning, acquisition, and design activities.

3. Planning, Acquisition, and Design Funding

A project that was not deemed ready to proceed to construction may receive an invitation to fund only the Planning, Acquisition, and/or Design portion of the project.

4. Viability and Feasibility of Projects

A project must demonstrate to the TWDB that it is viable, feasible, and sustainable prior to being invited to submit an application and prior to receiving a commitment for any funding option, including additional subsidization/principal forgiveness, for the acquisition, design or construction phases of the project. A project may receive funds for the planning phase to assess the viability and feasibility of a project, including funds to prepare an asset management plan.

F. Invitations and Application Submissions

The TWDB will invite certain entities on the PPL to submit an application for the project phases shown on the list using the available funding options. An entity on the list may not submit an application until it receives an invitation from TWDB. TWDB will consider the need to meet the minimum federal additional subsidization requirements when deciding whether it needs to bypass projects on the PPL.

Intent to Apply

As part of the invitation process the TWDB may require the applicant to submit an intent to apply form or information by a specified deadline showing the applicant's intent to request up to the eligible amount of funding in the IUP. Failure to submit the requested intent to apply information by the established deadline will result in TWDB bypassing the project on the IUP list.

Prior to submitting an application, entities are required to participate in a pre-application meeting to discuss the application process and project requirements. Invited applications from projects on the PPL that are received during the initial invitation round after Board approval of the IUP will be allotted available Additional Subsidization (principal forgiveness) based on rank order. All projects must be determined administratively complete as submitted or within 14 days from the date the applicant receives a notice to correct

deficiencies or any Additional Subsidization may be reallotted on a first-come, first-served basis.

Each application received by the TWDB will be reviewed to ensure that the required milestones have been met to allow funding of the phase(s) being requested. If the application review determines that a project is not ready to proceed for funding for the phase(s) being requested, the project may be bypassed for any additional subsidy amounts or receive limited phases of funding.

Projects may be bypassed if an applicant fails to timely submit a complete application or additional requested information.

Deadline for Receipt of Invitation

The TWDB will establish a deadline for receipt of the application. If the application is not received by the established deadline, the project will be bypassed.

Subsequent Invitations

TWDB may invite additional projects to submit if any funds remain unallocated after an initial invitation. Applicants may submit a PIF at any time for a project to be considered for inclusion on the amended PPL. The new projects will be considered after those on the original PPL list have been invited. Amendments to the project lists will undergo a 14-day public review period that will be advertised on the agency website.

G. Addressing Any Water Loss Mitigation within the Application

If an applicant that is a retail public utility providing potable water has a water loss that meets or exceeds the threshold for that utility in accordance with 31 Texas Administrative Code §358.6 the retail public utility must use a portion of any new CWSRF financial assistance, or any other financial assistance provided by TWDB, for eligible project costs to mitigate the utility's water loss. However, at the request of a retail public utility, the TWDB may waive this requirement if the TWDB finds that the utility is satisfactorily addressing the utility's system water loss. Mitigation, if necessary, will be in a manner determined by the retail public utility and the TWDB's Executive Administrator in conjunction with the project proposed by the utility and funded by TWDB.

H. Closing Deadlines

All commitments must close within six months from the date of the commitment. In extenuating circumstances, the Board may grant extensions of time to close if an applicant demonstrates sufficient reason for a delay. The TWDB may extend these closing deadlines if necessary to confirm to the closing schedule for concurrent financing for the project from another TWDB financing program.

Type of Financial Assistance	Closing Deadline
All commitments	6 months

I. Limits

1. Proportionate Share/Capacity

The TWDB may limit the amount of total funding available to an individual entity or project based on a proportionate share of total funds available.

2. Additional Project Funding Before Closing

The total project costs may be increased if the entity shows that additional funds are necessary to implement the project.

J. Transfer of Funds

Similar to the regular/base grants, the TWDB may transfer IIJA funds between the DWSRF emerging contaminants account and the CWSRF emerging contaminants account, or vice versa, in an amount up to thirty-three percent (33 percent) of the DWSRF IIJA emerging contaminants grant amount, or $19,536,660. Based on limited demand for CWSRF emerging contaminant FFY 2022 funding, TWDB is transferring $1,077,040 as in-kind funds from the CWSRF emerging contaminant account to the DWSRF emerging contaminants account and reserving authority for transferring the additional authority in the future.

K. Updates to the Intended Use Plan

Substantive changes to the IUP may be made through an amendment after a 14-day public review and comment period. Non-substantive changes may be made by the TWDB without public notification.

VIII. Financial Status

The TWDB will comply with the requirements associated with the FFY 2022 allotments under this SFY 2023 IUP.

A. Administration / Technical Assistance

The maximum annual amount of CWSRF money (not including any origination fees) that may be used to cover the reasonable costs of administering the fund is the greatest of the following:

1. an amount equal to four percent of all grant awards received by a State CWSRF less any amounts that have been used in previous years to cover administrative expenses;

2. $400,000; or

3. one-fifth of one percent of the current valuation of the fund.

The TWDB will draw funds for administration and technical assistance from the FFY 2022

Capitalization Grant in the amount of $170,960 based on the original CWSRF allotment. For this grant, the TWDB has allocated funds in accordance with the third option listed above.

Technical Assistance – for SFY 2023 the TWDB has elected not to take an additional two percent of the capitalization grant for technical assistance. The TWDB will provide technical assistance through the use of the portion of the grant allocated to administration and administration funds available under prior base program grants. TWDB reserves the right to use an amount equal to two percent of the grants for technical assistance at a later date.

B. State Match

No state match is required for the emerging contaminant grant funds.

C. Binding Commitment Requirement

The TWDB will enter into binding commitments with entities during SFY 2023 that total the amount of a FFY 2022 grant payment allocated to projects within one year after receipt of the grant payment. A binding commitment occurs when the TWDB's Board adopts a resolution to commit funds to a project.

D. Cross-collateralization

On March 1, 2018, the TWDB has cross-collateralized the CWSRF and the DWSRF as a source of revenue and security for the payment of the principal and interest on bonds for the DWSRF and CWSRF programs. State authority is provided under Section 15.6042 of the Texas Water Code. The TWDB has received a certification from the state Attorney General that state law permits the TWDB to cross-collateralize the assets of the CWSRF and the DWSRF.

1. Summary of the cross-collateralization structure:

   a. The type of moneys which will be used as security – Pledged Political Subdivision Bonds and certain other funds included in the Master Resolution (program account, portfolio account, and revenue account) will secure the bonds.

   b. How moneys will be used in the event of a default - In the cross-collateralized scenario, Political Subdivision Bonds from the non-defaulting program will be used to cover the debt service delinquency on the defaulting program. If, for any reason, insufficient Political Subdivision Bonds exist in both programs, then program equity will be utilized.

   c. Whether or not moneys used for a default in the other program will be repaid; and, if it will not be repaid, what will be the cumulative impact on the funds - While a decision to repay or not repay would be made at the time of default, the TWDB would either require repayment when funds are available or transfer repayment funds.

2. Proportionality – The proceeds generated by the issuance of bonds will be allocated to the purposes of the CWSRF and the DWSRF in the same proportion as the assets from the two funds that are used as security for the bonds.

3. State Match – In accordance with Texas Water Code §§ 17.853(c)(1) and 17.859, the TWDB intends to provide state match through the issuance of one or more revenue bonds in a program series that will fund the two SRF programs. Supplemental bond resolutions for the issuance of each series will provide detail on what specific money is pledged as security for each program (CWSRF or DWSRF) within the series. As required, the CWSRF and DWSRF will continue to be operated separately. The cash flows for the DWSRF program and the CWSRF program will be accounted for separately. Repayments on loans in the CWSRF program will be paid to the CWSRF and repayments on loans made in the DWSRF program will be paid to the DWSRF.

   Similar to other states' financing methods where state match is not provided by appropriation and is instead generated through debt issuance, the TWDB cross-collateralization structure allows the TWDB to retire bonds for the State Match with interest earnings payments only, not principal, earned from each SRF in accordance with 40 CFR § 35.3135(b)(2).

E. Method of Cash Draw

There is no state match and EPA has revised its cash draw policy as described in "Class Exception from the Clean Water and Drinking Water State Revolving Fund Cash Draw Rules", dated November 18, 2022. Therefore, TWDB will draw federal funds using acceptable evidence of expenditures.

F. Long-Term Financial Health of the Fund

The long-term financial health of the CWSRF is monitored through ongoing cash flow and capacity modeling. The TWDB lending rate policy has been established to preserve the corpus of the capitalization grants and state match funds, excluding the amount of additional subsidization, administration from each grant, and net transfers. The TWDB will continue to manage the CWSRF to ensure funds will be available in perpetuity for activities under the CWA.

G. Fees

No origination fee will be assessed on project financing.

H. EPA Program Evaluation Report and Audit

EPA has conducted an annual program review of the CWSRF program for SFY 2022 and will send their final report to TWDB upon completion.

The Texas State Auditor's Office published the results of the SFY 2022 Federal Portion Single Audit of the CWSRF on February 272023 (Report 23-315). There were no findings as a result of the review.

IX. Navigating the Lists

Appendices G – J are a series of lists that detail the proposed project information for each project based upon the PIFs received.

- **Appendix G** - The alphabetical list is the PPL sorted alphabetically. It contains the project information; the name of the applying entity, their total number of points and associated priority order rank, a detailed description of the proposed project, all project phases requested by the entity, and total project cost. A grand total for all of the projects is listed on the last page of the appendix.

- **Appendix H** – Projects that were deemed ineligible to receive CWSRF funding with a brief description as to why they were deemed ineligible.

- **Appendix I** – Projects that were deemed ineligible to receive disadvantaged funding with a brief description as to why they were deemed ineligible. The project may still be eligible to receive other funding options.

- **Appendix J** – Lists projects in order of highest priority to receive funding. The content is the same as the alphabetical list in Appendix G.

Appendix A. Public Review and Comment

Public participation is an important and required component of the IUP development process. The TWDB takes seriously its responsibility in administering these funds and considers public input necessary and beneficial.

A. Notice

To seek public comment, the draft IUP including the Project Priority List was made available until July 17, 2023. The draft FFY 2022/SFY 2023 CWSRF Emerging Contaminants IUP was announced as follows:

- Public notification of the draft IUP and the public comment period was posted on the TWDB website at https://www.twdb.texas.gov/.
- A copy of the draft IUP was sent to EPA after published.

B. Comment

Comments were accepted via the following three options from June 29, until midnight on July 17, 2023.

1. Attending a public hearing on July 17, 2023, at 9:30 A.M. at the Stephen F. Austin State Office Building, Room 170, in Austin, Texas.
2. Emailing comments to the following electronic mail address and specifying in the subject line "*CWSRF Emerging Contaminants comments*".

   CWSRF@twdb.texas.gov.
3. Mailing comments to the following postal mail address:

   Mr. Mark Wyatt
   Director, Program Administration and Reporting
   Texas Water Development Board
   P.O. Box 13231
   Austin, TX 78711-3231

C. Effective Date

The FFY 2022/SFY 2023 CWSRF Emerging Contaminants IUP is considered final on the effective date.

D. Documentation

The entire final IUP, including project lists, was formally submitted to the EPA and posted on the TWDB website.

Appendix B. Projected Sources and Uses of Funds

(As of April 1, 2023)

SOURCES:	
FFY 2022 Federal Capitalization Grant Allotment	$4,274,000
TOTAL SOURCES:	**$4,274,000**
USES:	
Administration:	
Administration	$170,960
Total Administration:	$170,960
Projects to be Funded:	
SFY 2023 IUP Commitments – Principal Forgiveness	$3,026,000
Total Projects To Be Funded - SFY 2023:	$3,026,000
Transfer to DWSRF Emerging Contaminants as In-Kind Funds:	$1,077,040
TOTAL USES:	**$4,274,000**
NET SOURCES (USES):	**$0**

Appendix C. Rating Criteria

1. Identified perfluoroalkyl and polyfluoroalkyl substances (PFAS) (Highest priority) and requested construction costs – 200 points (Highest priority) or

2. Identified emerging contaminants other than PFAS and requested construction costs – 100 points or

3. Proposals to identify emerging contaminants and/or requesting only planning and design and associated pre-project costs for any eligible purpose, without requesting the associated construction costs – 10 points

Plus the following:

4. Proposal that address the removal of emerging contaminants from treated wastewater/stormwater effluent that will eventually enter a drinking water treatment plant, or a proposal that address the removal of emerging contaminants from treated wastewater/stormwater effluent that will be beneficially reused for agricultural irrigation, potable water supply, groundwater replenishment, industrial processes, or environmental restoration – 15 points

5. Proposal that will provide first-time service to connections currently un-served by a central wastewater plant, and eliminate emerging contaminants, originating from the on-site waste systems from entering the watershed – 15 points

6. Disadvantaged Community or Small System – 30 points

A disadvantaged community is defined in Appendix D.

A small system is one serving fewer than 25,000 people.

7. A rural project is one that fits any of the following – 10 points:

i. An entity that provides services predominately in a rural area. Using the U.S. Bureau of the Census 2010 decennial census definitions of a rural area, not more than 20 percent of the residential service connections are in urbanized areas and not more than 50 percent are in urban clusters according to the most recent data available to TWDB. The calculation will be based on the utility service(s) associated with the proposed project;

ii. A project from a political subdivision with a population of 10,000 or less and located outside the extraterritorial jurisdiction of a city with a population of 500,000 or greater; or

iii. A project in a county in which no urban political subdivision exceeds 50,000 in population based upon the most current data available from the U.S. Bureau of the Census or TWDB-approved projections.

8. System size
Applicant entity serves under 1,000 connections – 15 points
Applicant entity serves between 1,000 and 10,000 connections – 10 points
Applicant entity serves between 10,000 and 25,000 connections – 5 points
Applicant entity serves over 25,000 connections but fewer than 50,000 connections – 2 points

Tie Breaker
Rating factors will be ranked in descending order with priority given to the entity serving the fewest connections first.

Appendix D. Affordability Criteria

An entity is considered an eligible disadvantaged community if it:

1) may have emerging contaminants,
2) 51 percent or more of the proposed project beneficiary area based on household connections has an Annual Median Household Income (AMHI) level that does not exceed 150 percent of the state's AMHI level. The state AMHI from the U.S. Census 2017-2021 American Community Survey (ACS) 5-year estimate is $67,321; therefore the AMHI of the proposed project beneficiary area must not exceed $100,982, and
3) the unemployment rate for the project beneficiaries is greater than 50 percent of the state unemployment rate or the population has declined or the utility is a small system with 25,000 or fewer connections for the applicable utility service.

Acceptable Source of Socioeconomic Data for FFY 2022

For this IUP, the TWDB will utilize:

(1) U.S. Census 2017-2021 ACS 5-year estimates. An Excel spreadsheet containing this date is located here:
https://www.twdb.texas.gov/financial/instructions/doc/ACS-data-for-SFY2024.xlsx

Entities may also access their U.S. Census 2017-2021 ACS 5-year estimate data directly from the U.S. Census webpage. Census Data Search guidance (WRD-284) is available on the TWDB website at: http://www.twdb.texas.gov/financial/instructions/doc/WRD-284.docx

OR

(2) Data from a socioeconomic survey approved by the Executive Administrator of a statistically acceptable sampling of customers in the service area completed in accordance with the most current Socioeconomic Surveys Guidelines (WRD-285) posted on the TWDB website. Any survey being used for income determination must be conducted within five years prior to the date the TWDB receives the PIF. An entity must submit documentation that substantiates the inadequate or absent Census data that led to the need to conduct a survey. **All entities must obtain prior approval to use survey data instead of the most recently available ACS data.**

In instances where the ACS data does not adequately reflect an entity's service area (e.g. an entity serves a community outside of its Certificate of Convenience and Necessity, an entity serves another system, the entity is a system without a Census Bureau defined boundary, etc.), a prorated analysis of ACS block group data will be performed to calculate the AMHI. Systems owned and operated by a public school or school district will be evaluated for their annual median household income for their school district boundary.

If recent reliable data is unavailable for the school district to determine the AMHI, the TWDB will use information from the Texas Education Agency's Title I, Part A program to determine income eligibility. If more than 50 percent of the school districts campuses are eligible for the program, the district's AMHI will be assumed to be eligible.

Methodology - Affordability Calculation and Disadvantaged Community Eligibility

City/Place, Census Tract and Block Group geographical U.S. Census geographical areas or an eligible income survey may be used for the AHMI, unemployment rate and population change calculations.

The methods below should be used to find the AMHI for the project beneficiary area. When finding the AMHI for the census geographic areas, applicants should also make note of the unemployment percentages and population change, as the same method and data source used for the AMHI calculation method below will be used for the unemployment rate and change in population. If an income survey is used, TWDB will use the most appropriate geographical area that represents the proposed project beneficiaries for determining the unemployment rate and change in population.

First method, easiest method to employ:
To lessen the burden on applicants who can meet the requirement without considering the 51% level, the TWDB will make the presumption that the average (mean) of the AMHI of all U.S. Census Bureau Cities/Places, Block Groups and/or Census Tracts containing any portion of the project service area is the AMHI for the project. Applicants must provide a list of all of the Cities/Places, Block Groups and/or Census Tracts containing any portion of the project service area, the AMHI for each City/Place, Block Group and/or Census Tract, and a detailed map of the proposed service area to be considered for using the presumptive approach in establishing the project's AMHI. TWDB will use the project area map to verify the associated Cities/Places, Block Groups and/or Census Tracts submitted. The Executive Administrator will then determine whether this option is a reasonable estimate of the AMHI for the project service area and may be used for the AMHI threshold calculation.

Second method, if first method does not meet the 150 percent threshold:
Any applicant that does not meet the 150 percent threshold by using the average (mean) of the U.S. Census Bureau Block Groups and/or Census Tracts containing any portion of the project service area may submit the actual number of household connections in each Block Group and/Census Tract and calculate the weighted average AHMI for the project service area.

Third method, if necessary to meet the 150 percent threshold:
Finally, if the AMHI of the applicant's project service area does not fall within 150 percent of the state AMHI threshold without consideration of the 51 percent calculation, the applicant would need to provide the number of household connections in each U.S. Census Bureau's geographical area that is used in the calculation.

Alternatively, as with general program activities, the entity may conduct an income survey for determining the applicable AMHI. Any survey being used for income determination must be completed within five years of prior to the date the TWDB receives the PIF.

Appendix E. Federal Requirements and Assurances

A. Federal Requirements

1. Build America, Buy America Act, 2021

The requirements of the Build America, Buy America Act, 2021 (P.L. 117-58), known as BABA, will apply to all projects funded for emerging contaminants. Additional information on BABA is available on the TWDB website at: http://www.twdb.texas.gov/financial/programs/BABA/index.asp

An additional source of information on BABA is Information on EPA's website.

2. Davis-Bacon Wage Rate Requirements

A subrecipient must comply with the requirements of section 513 of the Federal Water Pollution Control Act (33 U.S.C. 1372) in all procurement contracts and must require contractors to include compliance with section 513 of the Federal Water Pollution Control Act in all subcontracts and other lower tiered transactions. All contracts and subcontracts for the treatment works construction project must contain in full in any contract in excess of $2,000 the wage rate requirements contract clauses prescribed by TWDB. Section 513 requires compliance with 40 U.S. Code Sections 3141 to 3144, 3146, and 3147 covering wage rate requirements. TWDB guidance is available at http://www.twdb.texas.gov/financial/instructions/doc/DB-0156.pdf.

3. American Iron and Steel (AIS)

The TWDB and all CWSRF financial assistance recipients will comply with the American Iron and Steel (AIS) requirements in Section 608 of the Federal Water Pollution Control Act (33 U.S.C. 1388). The statute requires all of the iron and steel products used the construction, alteration, maintenance, or repair of treatment works funded by the CWSRF to be produced in the United States.

The term ''iron and steel products'' means the following products made primarily of iron or steel:

- lined or unlined pipes and fittings
- manhole covers and other municipal castings
- hydrants
- tanks
- flanges, pipe clamps and restraints
- valves
- structural steel
- reinforced precast concrete
- construction materials

EPA may waive the AIS requirement under certain circumstances.

Furthermore, if the original financial assistance agreement for the planning and/or design of a project closed prior to January 17, 2014, then the AIS provision would not apply to the

construction phase of the same project. TWDB guidance is available at http://www.twdb.texas.gov/financial/instructions/doc/TWDB-1106.docx.

4. **National Environmental Policy Act-like environmental review**

   The NEPA-like environmental review applies to all CWSRF program emerging contaminants projects. These requirements are specified in Texas Administrative Code, Title 31, Part 10, Chapter 375. When conducting its NEPA-like review the TWDB will inform EPA when consultation or coordination by EPA with other federal agencies is necessary to resolve issues regarding compliance with applicable federal authorities.

5. **Generally Accepted Accounting Principles**

   Assistance recipients must maintain project accounts according to Generally Accepted Accounting Principles as issued by the Governmental Accounting Standards Board, including standards relating to the reporting of infrastructure assets.

6. **Cost and Effectiveness Analysis**

   A municipality or intermunicipal, interstate, or State agency that receives assistance from the CWSRF must certify that they have conducted a cost and effectiveness analysis. A cost and effectiveness analysis is an eligible cost under the CWSRF. The certification must be provided before CWSRF assistance is provided for final design or construction. TWDB guidance is available at http://www.twdb.texas.gov/financial/instructions/doc/TWDB-1107.pdf.

7. **Architectural and Engineering contracts**

   A contract to be carried out using CWSRF funds for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services must be negotiated in the same manner as a contract for architectural and engineering services is negotiated under 40 U.S.C. 1101 et seq. This applies to new solicitations, significant contractual amendments, and contract renewals. TWDB guidance is available at http://www.twdb.texas.gov/financial/instructions/doc/TWDB-1108.pdf.

8. **Compliance with Cross-cutting Authorities**

   There are a number of federal laws, executive orders, and federal policies that apply to projects and activities receiving federal financial assistance, regardless of whether the federal laws authorizing the assistance make them applicable. These federal authorities are referred to as cross-cutting authorities or cross-cutters. All cross-cutters apply to quivalency projects, which is all emerging contaminants projects

   The cross-cutters can be divided into three groups: environmental; social policies; and, economic and miscellaneous authorities.

   - Environmental cross-cutters include federal laws and executive orders that relate to preservation of historical and archaeological sites, endangered species, wetlands, agricultural land, etc. (Note – as described under Number 3 above, any project that is

considered a “treatment work” as defined in 33 U.S. Code § 1292 (2)CA), incorporated by reference in 33 U.S.C. § 1362 (26), must comply with 33 U.S.C. § 1371(c)(1). TWDB will apply to these projects its “NEPA-like” environmental review process found in Texas Administrative Code, Title 31, Part 10, Chapter 375.)

- Social policy cross-cutters include requirements such as minority and women’s business enterprise participation goals, equal opportunity employment goals, and nondiscrimination laws. This cross-cutter requirement includes compliance with the EPA’s Disadvantaged Business Enterprise program administered by TWDB.
- Economic cross-cutters directly regulate the expenditure of federal funds such as the prohibition against entering into contracts with debarred or suspended firms.

The Equivalency projects that are considered federal are those entered into the Federal Funding Accountability and Transparency Act Subaward Reporting System.

9. Signage

CWSRF emerging contaminants projects must comply with applicable EPA signage requirements.

B. Assurances

1. Regulatory Assurances (Citations refer to sections of Title VI of the Clean Water Act (CWA-33 U.S.C. §§1251 *et seq*.):

a. 602(b)(3) – Binding Commitments - The TWDB will enter into binding commitments for amount equal to each quarterly payment within one year of receipt of that payment taking in account cumulative excess binding commitments.
b. 602(b)(4) – Expeditious and Timely Expenditures - The TWDB will expend all funds in the CWSRF in a timely and expeditious manner.
c. 602(b)(5) – First Use for Enforceable Requirements - The TWDB has previously met this requirement.
d. 602(b)(6) – Compliance with Title II Requirements - The TWDB will comply with 511(c)(1) and 513 of this Act in the same manner as treatment works constructed with assistance under title II of this Act.
e. 602(b)(6) – Environmental Reviews –A NEPA-like review will be conducted on all projects for the construction of treatment works.

2. Entry into the Federal Reporting Systems

The TWDB will enter information into EPA’s CWSRF Reporting System, the CWSRF National Information Management System, and the Federal Funding Accountability and Transparency Act Subaward Reporting System as required.

Appendix F. Bypass Procedures

The Executive Administrator may decide to bypass, or skip, higher ranked projects in favor of lower ranked projects to ensure that funds available are utilized in a timely manner and that statutory and capitalization grant requirements are met. If an entity is offered funding for any project that has an interrelated project ranked lower on the list, the TWDB Executive Administrator will have discretion to also offer funding for the interrelated project.

Reasons for bypassing projects are listed below, but are not limited to:

1. Fulfill the Minimum Additional Subsidization Requirement

A project on the PPL or IIPL may be bypassed to fulfill the federal minimum additional subsidization requirement or to make commitments of the amount of funds that remain unallocated.

2. Intent to Apply and Application Submission Deadlines

A project may be bypassed if the applicant did not submit any intent to apply form or information by a specified deadline or the application is not received by the TWDB-established submission deadline and it is not administratively complete by the established deadline.

3. Readiness to Proceed

The Executive Administrator may bypass projects to include those deemed ready to proceed to construction.

4. Past Project Performance

If the applicant has failed to close a commitment or complete a project in a timely manner under a prior IUP, and it is determined that such failure to perform could jeopardize the timely use of funds for a project under this IUP, the Executive Administrator may bypass the project.

5. Financial Capacity

A project may be bypassed if the Executive Administrator determines that the applicant will be unable to repay the SRF financial assistance for the project or does not have acceptable financial records or audits.

Texas Water Development Board
SFY 2023 Clean Water State Revolving Fund - Emerging Contaminants
Intended Use Plan
Appendix G. Project Priority List - Alphabetical

Rank	Points	Entity	Population	Project Description	Requested Phase(s)	Total Project Cost
4	55	Corpus Christi	318,168	As part of the Phase I expansion project (Greenwood WWTP), the City would like to add preliminary treatment analysis of PFAS removal from the Greenwood WWTP. This will include bench scale testing of PFAS removal technologies on reclaimed water and PFAS source identification on the wastewater collection system. This is a crucial step towards ensuring the safety of drinking water sources and reducing the need for extensive and expensive treatment processes for reclaimed water and biosolids from the Greenwood WWTP. Based on the feasibility study and permitting progress requirements, a PFAS treatment process can be added to the Phase II of Greenwood WWTP Expansion project.	P	$625,000.00
1	70	Corsicana	24,850	This project will test Wastewater Reclamation Center influent for PFOS, PFOA, & PFAS. If these compounds are present, idditional testing will be conducted in the collection system to identify sources.	P	$10,000.00
5	55	Fort Worth	1,345,928	This project will explore the prevalence of emerging contaminants in wastewater. The Fort Worth Water Utility plan to reduce the introduction of Per-and polyfluoroalkyl substances (PFAS) in the collection system by initiating a testing plan to identify sources and develop strategies for reduction. Influent, effluent, biosolids, and reclaimed testing will determine concentration levels for PFAS entering the Village Creek Water Reclamation Facility.	P	$520,000.00
3	55	Laredo	256,153	Continuous Wastewater Treatment Discharge Monitoring at five (5) of the City of Laredo's wastewater treatment plant discharge streams with determination if plant treatment will be required.	P	$1,325,000.00
2	70	Weatherford	36,251	This project includes monitoring for PFAS in the City of Weatherford's WWTP treated effluent, biosol1ds, and industrial pretreatment program and planning for future potential PFAS regulations.	P	$546,000.00
Total			**5**			**$3,026,000.00**

All project funding is principal forgiveness.

Texas Water Development Board
SFY 2023 Clean Water State Revolving Fund - Emerging Contaminants
Intended Use Plan
Appendix H. Alphabetical List of Ineligible Projects

None.

Texas Water Development Board
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Intended Use Plan
Appendix I. Projects Ineligible for Disadvantaged Funding

None.

Texas Water Development Board
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Appendix J. Project Priority List - By Rank

Rank	Points	Entity	Population	Project Description	Requested Phase(s)	Total Project Cost
1	70	Corsicana	24,850	This project will test Wastewater Reclamation Center influent for PFOS, PFOA, & PFAS. If these compounds are present, idditional testing will be conducted in the collection system to identify sources.	P	$10,000.00
2	70	Weatherford	36,251	This project includes monitoring for PFAS in the City of Weatherford's WWTP treated effluent, biosol1ds, and industrial pretreatment program and planning for future potential PFAS regulations.	P	$546,000.00
3	55	Laredo	256,153	Continuous Wastewater Treatment Discharge Monitoring at five (5) of the City of Laredo's wastewater treatment plant discharge streams with determination if plant treatment will be required.	P	$1,325,000.00
4	55	Corpus Christi	318,168	As part of the Phase I expansion project (Greenwood WWTP), the City would like to add preliminary treatment analysis of PFAS removal from the Greenwood WWTP. This will include bench scale testing of PFAS removal technologies on reclaimed water and PFAS source identification on the wastewater collection system. This is a crucial step towards ensuring the safety of drinking water sources and reducing the need for extensive and expensive treatment processes for reclaimed water and biosolids from the Greenwood WWTP. Based on the feasibility study and permitting progress requirements, a PFAS treatment process can be added to the Phase II of Greenwood WWTP Expansion project.	P	$625,000.00
5	55	Fort Worth	1,345,928	This project will explore the prevalence of emerging contaminants in wastewater. The Fort Worth Water Utility plan to reduce the introduction of Per-and polyfluoroalkyl substances (PFAS) in the collection system by initiating a testing plan to identify sources and develop strategies for reduction. Influent, effluent, biosolids, and reclaimed testing will determine concentration levels for PFAS entering the Village Creek Water Reclamation Facility.	P	$520,000.00
Total			**5**			**$3,026,000.00**

Phase(s): P-Planning, A-Acquisition, D-Design, C-Construction