



INTENDED USE PLAN  
CLEAN WATER STATE REVOLVING FUND

STATE FISCAL YEAR 2020  
FEDERAL FISCAL YEAR 2019





# Clean Water State Revolving Fund Intended Use Plan

April 2020

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### Introduction

When the Tennessee General Assembly passed the “Wastewater Facilities Act of 1987,” it established the Tennessee Clean Water State Revolving Fund (CWSRF) as a way to provide low-interest loans to local governments and publically owned treatment works to finance

wastewater infrastructure improvement projects. Since its creation, the CWSRF, which is within the [State Revolving Fund \(SRF\)](#) program of the Tennessee Department of Environment and Conservation (TDEC) Division of Water Resources, has provided hundreds of millions of dollars in assistance to Tennessee communities. The SRF Program provides low-interest loans and technical assistance to cities, counties, utility districts, and wastewater and energy authorities across the State for planning, design, and construction of wastewater infrastructure projects. The SRF 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. The CWSRF is designed as a federal-state partnership program to assist public water systems (PWS) with an independent source of low-cost financing for a wide range of water quality infrastructure projects. The program was created through the 1987 Amendments to the Clean Water Act (CWA) which authorized the US Environmental Protection Agency (EPA) to establish a CWSRF loan program to further the protection of public health and the water quality objectives of the CWA.

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

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

TDEC SRF long term and short term goals

The financial status of the Clean Water SRF loan program

Description of the methods and criteria used to distribute funds

Automated Standard Application for Payments (ASAP) Schedule

Priority Ranking List (PRL) for FFY 2019

Description of non-point source (NPS) activities eligible for assistance under Section 319 of the CWA

TDEC’s new Small and Disadvantaged Community program

TDEC’s new Ability to Pay Index

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upgrade; treatment; storage; water reuse; green infrastructure; energy optimization; and resilience. These funds are repaid over time, ensuring the long-term viability of the CWSRF program.

Section 606(c) of the CWA 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 [Clean Water IUP](#) serves as the planning document detailing how the federal fiscal year (FFY) 2019 appropriations for the CWSRF loan program will be used. The State of Tennessee's allotment of FFY 2019 CWSRF Loan Program dollars is \$23,082,000. The State is required to provide a 20% match of federal funds. Based on the FFY 2019 capitalization grant, a state match of \$4,616,400 is required. The EPA Capitalization Grant plus State match will provide an expected \$27,698,400 in funds available for projects.

## **Clean Water State Revolving Fund Goals and Objectives**

Congress allows state CWSRF programs flexibility to design a program tailored to meet the needs of the state, local communities, and publicly-owned wastewater treatment works. Tennessee's [CWSRF program](#) developed long and short-term goals as a framework for decisions Tennessee makes in the CWSRF program.

### ***Long-Term CWSRF Goals***

1. Protect and enhance the water quality in Tennessee by ensuring the technical integrity and long-term sustainability of funded projects.
  - a. Objective: ensure adequate and effective project planning, design, and construction management.
  - b. Objective: maintain a priority ranking system and offer available funds to projects with the highest priority points that are ready to proceed.
2. Maintain the long-term financial integrity of the CWSRF program through the judicious use and management of its assets and by realizing an adequate rate of return, preventing fraud, waste, and abuse.
3. Maintain a self-sustaining revolving loan program through the CWSRF Loan Program to provide local governments in Tennessee with low-cost financial assistance for

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wastewater infrastructure projects.

- a. Objective: Ensure the use of accounting, audit, and fiscal procedures that conform to generally accepted governmental accounting principles.
  - b. Objective: Ensure the financial stability of loan recipients by reviewing the financial history, loan security, and proposed user rates of loan applicants.
  - c. Objective: Obligate funds in a timely manner and provide technical and administrative assistance for efficient project management.
4. Facilitate allocation of program resources to address the most significant public health and water quality compliance problems by actively working with these systems and the TDEC regulatory staff.
  5. Promote the development of the technical, managerial, and financial capability of all publicly-owned wastewater treatment works to maintain or come into compliance with state and federal requirements.
  6. Provide clean water assistance in an orderly and environmentally sound manner.
  7. Assure that all new wastewater systems funded by the program demonstrate technical, managerial, and financial capability with respect to state and federal regulations.

### **Short Term Goals**

1. Manage an effective and efficient CWSRF Loan Program
  - a. Objective: Update administrative policies and guidance including standard operating procedures for the CWSRF Loan Program.
  - b. Objective: Coordinate and work with the Comptroller of the Treasury to ensure the best financing alternative(s) to local governments.
2. Assist the development and implementation of local water quality protection initiatives.
3. Aid compliance with state and federal water quality standards by all funded publicly-owned wastewater treatment works.
4. Expand the use of [Green Project Reserve \(GPR\)](#) funding to include more projects and encourage innovative use of SRF funds following EPA's guidance. The SRF

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Program has elected to strive for a goal of up to 18% of grant funds to be used for innovative, green, or resilient projects.

5. Provide direct technical assistance to publicly-owned wastewater treatment works.
6. Expand and broaden our community outreach activities to ensure that publicly-owned wastewater treatment works are aware of and understand CWSRF assistance options and the loan application process by presenting an annual statewide workshop to publicize the CWSRF program in coordination with Tennessee Department of Economic & Community Development and USDA-Rural Development.
7. Develop a database for clean water project data and program management data.
8. Ensure that all funds in the SRF and grant award are expended in an expeditious and timely manner.

## Clean Water Priority Ranking System

TDEC's CWSRF program uses a priority ranking system to develop the [Priority Ranking List](#) (PRL). The State's CWSRF Priority Ranking System rules, Tenn. Comp. R. & Regs. ("Rule") Chapter 0400-46-01, provide a clear, objective order of ranking wastewater infrastructure projects. The PRL focuses on projects aiming to achieve optimum water quality management consistent with the goals and requirements of the CWA and the Tennessee Water Quality Control Act. The rationale for funding projects in an order other than that shown on the PRL shall be in accordance with the rules for the Priority Ranking System, Chapter 0400-46-01-.03. Exceptions to the order of funding may be allowed under special circumstances. Such projects would include those where unanticipated failures requiring immediate attention to protect public health occur.

Applicants seeking funding must submit a letter of request that includes a detailed project description, explanation of project need, location of the project, cost estimate and project start and completion dates to the SRF Loan Program. Projects eligible for CWSRF 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 water quality. All proposed projects will be assigned Project Criteria Points based on the project criteria established in Rule 0400-46-01-.02(2). Project Criteria Points will be assigned to individual

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wastewater facilities projects based on the following:

- Wastewater treatment plant (WWTP) discharges to a water-quality impaired stream segment will receive 100 Project Criteria Points in addition to any other applicable Project Criteria Points. WWTP projects with a compliance schedule in the NPDES permit requiring construction will receive 50 Project Criteria Points in addition to any other applicable Project Criteria Points;
- Wastewater collection system projects with a compliance schedule in the NPDES permit requiring construction will receive 50 Project Criteria Points in addition to any other applicable Project Criteria Points;
- Nonpoint Source (NPS) pollution projects affecting a water-quality impaired stream segment will receive 100 Project Criteria Points. Other NPS pollution projects will receive 25 Project Criteria Points. NPS pollution projects may be directed toward protection or improvement of the quality of groundwater, surface water, or wetlands. NPS pollution projects must be consistent with Tennessee's approved Nonpoint Source Management Program requirements and be included in the State's current EPA approved Nonpoint Source Management Plan;
- Effluent-trading projects will receive 50 Project Criteria Points in addition to any other applicable Project Criteria Points;
- Combined Sewer Overflow (CSO) projects will receive 25 Project Criteria Points;
- Infiltration/Inflow (I/I) correction projects and major sewer rehabilitation projects will receive 25 Project Criteria Points. Construction of projects that will transport and treat I/I at the WWTP will receive 10 Project Criteria Points;
- Stormwater management projects affecting a water-quality impaired stream segment will receive 100 Project Criteria Points. Stormwater management projects with a compliance schedule in the NPDES permit requiring construction will receive 50 Project Criteria Points. All other stormwater management projects will receive 25 Project Criteria Points;
- Collection lines to be constructed to address an existing public health problem caused by failed septic systems will receive a minimum of 40 Project Criteria Points up to a maximum of 100 Project Criteria Points;
- Any wastewater project proposed for development or growth potential, i.e., projects that were not planned to address a water quality problem or a public health problem, will receive 5 Project Criteria Points. WWTPs that are required to

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serve new collectors as part of the approved facilities plan will receive the same Project Criteria Points as the collectors;

- Interceptors and pump stations will receive varying Project Criteria Points. Interceptors or pump stations that eliminate a WWTP discharge point that was included in an approved facilities plan will receive the same Project Criteria Points as the WWTP. Interceptors or pump stations proposed as part of an I/I elimination project will receive the same Project Criteria Points as the I/I elimination project. Interceptors or pump stations proposed as part of a collection system project will receive the same Project Criteria Points as the collection system project;
- Planning/Design projects will receive Project Criteria Points based upon the proposed project type;
- CWA Section 212 projects that are also associated with the construction of nonpoint source projects shall have an additional 20 Project Criteria Points;
- CWA Section 212 projects with zoning that demonstrates preservation of greenspace shall have an additional 15 Project Criteria Points;
- CWA Section 212 projects with zoning that demonstrates riparian buffer zones of at least 150 feet shall have an additional 10 Project Criteria Points;
- CWA Section 212 projects demonstrating an enforced buffer zone ordinance shall have an additional 5 Project Criteria Points;
- Refinancing projects will receive 1 Project Criteria Point; and
- In accordance with Tenn. Code Ann. § 6-58-109(b), all SRF projects within counties that have an approved growth plan will receive 5 Project Criteria Points in addition to any other applicable Project Criteria Points.

### Fundable Clean Water Project Categories

- Construction of municipal wastewater facilities
- Control non-point source pollution
- Decentralized wastewater treatment systems
- Green infrastructure projects
- Water quality projects
- Stormwater management
- Brownfields
- Consolidation
- Recycled water
- Asset management

Table 1: CWSRF Clean Water Project Options

The assigned Project Criteria Points are calculated to determine the Priority Point Value and are applicable only to WWTP projects. The Project Criteria Points are summed to establish a proposed project's Priority Rank. Projects will be placed on the PRL in ascending order by



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Priority Rank, i.e., in descending order by total project priority points. Projects requesting funds for ineligible activities will not be assigned priority points. Projects with the same priority points will be ranked based on consideration of the Ability to Pay Index (ATPI) and population served to assist smaller and less affluent communities in addition to making the most targeted investment with the greatest potential outcome for Tennessee communities.

The CWSRF Loan Program may not provide assistance to any system that does not maintain an adequate level of financial capability to assure sufficient revenues to operate and maintain the wastewater facility for its useful life, agree to periodic adjustment of fees and services of the wastewater facility in order to repay the loan in a timely manner, agree to maintain financial records in accordance with governmental account standards, conduct an annual financial audit of the facility, and provide any additional assurances as requested by TDEC (Rule 0400-46-06-.04(1)).

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

In accordance with section 606(c)(1) of the CWA, 40 CFR § 35.3150, the SRF Program has developed a list of projects to receive funding in the first year after the grant award and a comprehensive priority list of eligible projects for funding in future years (CWSRF will maintain past PRLs). The PRL includes: community information, project description, related assigned points, the ATPI, watershed total project cost, amount of GPR (if applicable), anticipated construction start and end date, and EPA Needs Survey Category. The CWSRF PRL (Appendix) includes eligible projects for which the total cost of assistance requested is at least equal to the amount of the Capitalization Grant being applied for before the EPA awards the grant. In addition to the projects listed, the CWSRF loan program may consider loan increases for existing projects, projects carried forward from FY 2019, and other CWSRF-eligible projects. The CWSRF project list may include NPS projects since the State's NPS Assessment and Management Program has been approved.

### **Criteria and Methods for Distributing Funds**

The SRF Program will provide funding letters to all communities with projects on the FY 2020 PRL after the EPA loan award date. For the FFY 2019 capitalization grant, funding priority will be directed to 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. Communities with projects on the CWSRF PRL may be bypassed based on failure to submit a complete application 90 days after being notified or are not ready to proceed.

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The primary use of capitalization grant funding is for assistance to wastewater utilities for capital improvements (infrastructure projects). This assistance can be provided as planning and design loans or construction loans. Not all clean water compliance problems, however, can be solved through capital financing of infrastructure improvements.

TDEC has determined, based on the projected total award dollars, and the previous year carry-forward balance, coupled with the Drinking Water SRF funds transferred to CWSRF, the State can provide up to \$143,291,059 to loan for projects ([Table 2](#)).

The interest rate will be based on the community's ATPI. Interest rates can vary from zero 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. Communities that fall within the lower economic scale of the ATPI will be eligible for a lower interest rate. 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 term of the loan 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 and Local Finance for the CWSRF loans that are awarded on or after October 1, 2009.

The State's NPS Management Program has been approved and the IUP may include NPS projects and activities for funding under the CWSRF when viable projects are identified.

### ***Interest Rates and Affordability Criteria***

The interest rate will be based on a community's ability to pay determined through the State's ATPI. Interest rates can vary from zero to 100 percent of the interest rate reported on the 20-year Bond Buyer Index and the Municipal Market Data General Obligation Yields published every Thursday. The SRF Program provides an updated interest rate every Monday. The State may also recommend a reduction of the interest rate to incentivize [Green Project Reserve \(GPR\)](#) and sustainable & resilient projects, but not below zero percent. The interest rates for utility districts and wastewater 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 term of the loan is a maximum of 30 years or the useful life of the project, whichever is

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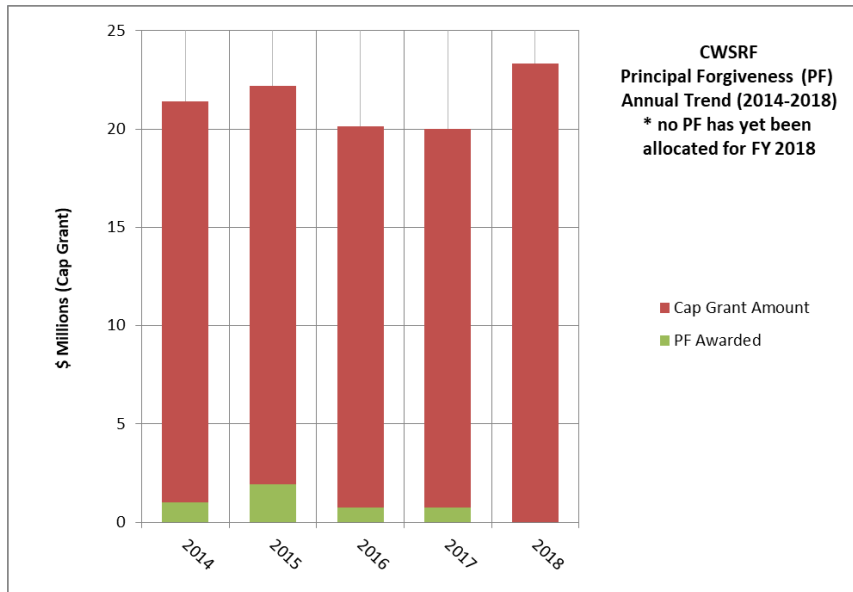


Figure 1: CWSRF annual trend for Principal Forgiveness

The SRF Program will allocate proportional amounts of principal forgiveness on an annual basis and will continue to stay in-line with historic trends (Figure 1). This ensures the long term stability of SRF Program. The SRF program will also develop a cash flow model to analyze the CWSRF funding base and forecast impacts to the overall SRF Program. This information will assist the State in program

evaluation and make future programmatic decisions regarding fund management for GPR projects and small and disadvantaged communities.

Allocation of Drinking Water State Revolving Fund (DWSRF) subsidies will be determined based, in part, on the ATPI developed by the University for Tennessee Institute of Agriculture (UTIA) in 2019. The ATPI is a database of socioeconomic and financial data, including the Appalachian Regional Commission ranking, used to help make decisions regarding the determination of interest rates, allocation of subsidy, and identification of options intended to benefit communities that need it the most. The allocation formula uses a broad definition of fiscal capacity that considers income, unemployment data, and population trends. The intent is to measure fiscal capacity in terms of the available resources to pay for services. The new ATPI will be updated with current data every year by the University of Tennessee.

The ATPI is 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.

### ***Small and Disadvantaged Communities***

In 2019, the SRF Program responded to requests from Governor Lee regarding rural

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community assistance by prioritizing allocation of subsidy for water and wastewater infrastructure (in the form of principal forgiveness and lower interest rates) to communities identified as both small and economically disadvantaged. Eligibility of CWSRF principal forgiveness will be determined based on the most current ATPI. Small communities are those with a population of 10,000 or less per designation by EPA guidelines. To be considered disadvantaged, the community must score 60 or less on the index. 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. Standard principal forgiveness for eligible communities will be provided at 10% of the loan value (not to exceed \$2,000,000 in total principal discounted for a single loan or project within a year, and within total SRF allotted principal forgiveness for a given fiscal year).

As part of TDEC's effort to assist small, disadvantaged, and rural communities, SRF will initiate a small number of pilot projects with communities to address high priority water infrastructure challenges. In return for in-kind effort to assist in the development of new methods, guidelines, tools, and innovative approaches to solving water infrastructure challenges, communities may be eligible to receive additional principal forgiveness. Communities and TDEC will develop pilot projects and in-kind efforts that allow the community to take a leadership position to develop innovative solutions and to educate other communities across the state. In-kind efforts will be included as part of the SRF loan agreement and considered a binding agreement at the time of loan approval. Based on these initial pilots, SRF will develop formal guidelines and eligibility criteria for future projects and submit these for public comment as part of the next IUP.

### ***Green Project Reserve (GPR) Allocation***

The FFY 2019 CWSRF Capitalization Grant requires that a portion of the funds must be allocated to GPR projects, which address green infrastructure, resilience, water or energy efficiency improvements, or other environmentally innovative activities. The State will allocate a minimum of 10% of the FFY 2019 project funds to fund eligible green projects. The State has elected to strive for a goal of 18% allocation for green projects.

A lower interest rate may be awarded to eligible communities for green projects that meet eligibility requirements for [GPR projects](#). Selection and ranking of projects meeting GPR criteria will follow the same process as all other SRF projects. Additionally, green projects will be selected separately from FFY 2019 project funds until the 18% allocation has been met.

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The State will have met the GPR requirement when the minimum percentage of the capitalization grant for FFY 2019 is in executed assistance agreements for qualifying green projects. If a green project is underbid and the State has not met the required percentage for GPR, the difference between the amount in the executed assistance agreement and the winning bid must be used for another green project(s).

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

All CWSRF projects are required to comply with all current CWSRF rules, regulations, policies, and procedures provided in this section and elsewhere in this document. In addition to this section, the [Federal Fiscal Year Appropriations Bill](#) outlines requirements for all federally funded projects. More information on those requirements is provided in that section of this document.

To be considered for FFY 2019 CWSRF GPR funding, not less than 20% of the total project cost must be used towards the green component. If the green component cost is less than 20%, the total project funding will be adjusted such that the green component cost will be equal to 20% of the funded project cost.

### Cost and Effectiveness Analysis

Under the CWA section 602(b)(13), the statute requires all assistance recipients meeting the definition of municipality or inter-municipal, interstate, or state agency to certify that they have conducted the studies and evaluations referred to as a cost and effectiveness analysis. The statute requires that a cost and effectiveness analysis involve, at a minimum: the study and evaluation of the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which assistance is sought under this title; and the selection, to the maximum extent practicable, of a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation and energy conservation, taking into account –

- The cost to construct the project or activity;
- The cost of to operate and maintain the project or activity over the life of the project or activity; and
- The cost to replace the project or activity.

A cost and effectiveness analysis is an eligible cost, and CWSRFs can provide assistance for planning or engineering activities that involve this analysis; however, the certification must

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be provided before loan approval. This provision applies to all types of assistance provided to the public entities described above for which the recipient submits an application on or after October 1, 2015.

### Generally Accepted Accounting Principles (GAAP)

The State requires assistance recipients to follow CWA section 602(b)(9) and maintain project accounts according to Generally Accepted Accounting Principles (GAAP) as issued by the [Government Accounting Standards Board \(GASB\)](#). This provision requires assistance recipients to use standards relating to the reporting of infrastructure assets. The most recent applicable standard is GASB Statement No. 34 (GASB 34), issued in June 1999, which details governmental reporting requirements including standards for reporting of infrastructure assets. Further details on the requirements, as well as the full text of GASB 34, can be obtained through the GASB.

### Fiscal Sustainability Planning (FSP)

As amended, by the WRRDA, the CWA §603(d)(1)(E) requires a recipient of a loan for a project that involves the repair, replacement, or expansion of a publicly owned treatment works to develop and implement a fiscal sustainability plan (FSP) or certify that it has developed and implemented such a plan. This provision applies to all loans for which the borrower submitted an application on or after October 1, 2014.

FSPs should be treated as “living documents” that are regularly reviewed, revised, expanded, and implemented as an integral part of the operation and management of the system. At a minimum, the FSPs should include:

- An inventory of critical assets that are part of the treatment works;
- An evaluation of the condition and performance of inventoried assets or asset groupings;
- A certification that the assistance recipient has evaluated and will implement water and energy conservation efforts as part of the plant; and
- A plan to maintain, repair, and, as necessary, replace the treatment works and a plan to fund such activities.

The State has determined that certification will be submitted to SRF before loan approval, and the FSP must be completed and in place by the “Notice to Proceed” and made available for review by SRF staff upon the first interim construction inspection visit.

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#### Architectural and Engineering Procurement

According to the Amendments to the Water Resources Reform and Development Act, any capitalization grant awarded after October 1, 2014, the State must ensure that all architectural and engineering (A/E) contracts for projects identified as using funds “directly made available by” a capitalization grant (i.e. equivalency projects) comply with the elements of the procurement processes for A/E services as identified in 40 U.S.C. 1101 et seq., or an equivalent state requirement.

To the extent possible, the State should identify all equivalency projects in its IUP. The State should also identify all equivalency projects in its Annual Report and specify whether those projects include any A/E services. Only the SRF-funded contracts for A/E services associated with equivalency projects must comply with this requirement.

The State intends to use one or a combination of the projects identified on the Clean Water Priority Ranking List (Attachment A) for the Cities of Franklin, Chattanooga, or the Town of Smyrna to satisfy its CWSRF equivalency project requirements.

### **Financial Status of the CWSRF Loan Program**

Required state match funds will be appropriated in the FY 2020 state budget for the FFY 2019 Capitalization Grant. The 20% match of \$4,616,400 is allocated to the CWSRF Loan Program project fund during FFY 2019. Based on the carry forward dollars, coupled with the Drinking Water SRF funds transferred to CWSRF, and the available funds from the FFY 2019 Capitalization Grant, the State can provide up to \$143,291,059 to loan for projects (Table 2). These funds are expended, at the 80% federal and 20% state match. Reimbursements are submitted by loan recipients; once approved by the State, the funds are reimbursed to the recipient. Recipients repay the loans and these dollars are deposited into the Fund and interest is earned.

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Table 2: Summary of CWSRF Financial Status

<b>Financial Status of the CWSRF Loan Program for FY 2019</b>		
Prior-Year (FY2019) Carry-forward Funds*^		\$ 143,291,059
FFY 2019 Capitalization Grant		23,082,000
20% of FFY 2019 Capitalization Grant matched by State		4,616,400
<b>CWSRF Loan Program Project Funds*</b>		<b>\$ 170,989,459</b>
*Pursuant to section 603 (d)(7) of the CWA, the State intends to use up to 1/5 <sup>th</sup> of one percent of the current valuation of the fund for administrative support.		
^The carry-forward funds include the transfer of \$42,809,917 to the Clean Water Fund from the Drinking Water Fund as of March 12, 2019 pursuant to 40 CFR 35 Subpart (k).		

## Administrative and Technical Assistance

The State intends to utilize up to 1/5 percent of the current valuation of the CWSRF Revolving Fund for administration and technical assistance projects, pursuant to section 603(d)(7) of the CWA. The valuation calculation shall be based upon "Total Net Position" of the Fund as determined by the Comptroller of the Treasury state fiscal yearend (June 30) and reported in the Annual Audit. The net position of the CWSRF fund balance for the State FY 2019 is yet to be available and therefore, we estimate that approximately \$2,200,000 will be allocated for administration, management, and operation of the CWSRF Loan Program.

The administrative support includes salaries and benefits of employees; travel of staff relating to project management, conferences, seminars, and workshops; training contracts and state employees; general office supplies; equipment purchases (as needed), communication and printing, and rent of office space. Funds may also be used for monitoring activities relative to nutrient / plant optimization projects.

### ***Program Assistance Contracts***

#### Ability to Pay Index (ATPI)

The SRF Program is required by the EPA to use an appropriate ATPI in order to administer SRF clean water and drinking water loans. In addition, the WRRDA requires that all state SRF programs use relevant data associated with population trends, income, unemployment, and "other" metrics in the determination of priority ranking and project scoring, tiered interest rates, distribution of additional subsidy, and eligibility for planning



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and design loans or other benefits for disadvantaged communities. TDEC has contracted with UTIA to update the ATPI annually for all TN counties, cities, and municipalities. The CWSRF will use \$45,000 in administrative funding from FFY 2019 for this purpose. The ATPI is a database of socioeconomic and financial data that serves as the foundation for an index used to help make decisions regarding determination interest rates, allocation of subsidy, and identification of options intended to benefit communities that need it the most. Through this contract, a consistent, transparent, and annually updated index is provided to improve decision making in loan and grant administration by TDEC and the Tennessee Department of Economic & Community Development (ECD). The ATPI will also enhance coordination between TDEC, ECD, and Tennessee USDA Rural Development regarding the potential use of resources to best serve disadvantaged communities.

#### Targeted Technical Assistance and Training for Small and Disadvantaged Communities

The SRF Program will contract with the Tennessee Association of Utility Districts (TAUD) to develop a consolidated technical assistance program to provide targeted technical assistance to distressed or disadvantaged communities. This contract (using \$100,000 from FFY 2019 CWSRF administrative funding) will focus on technical assistance needs for both 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 [Tennessee's water plan, TN H2O](#). Technical assistance will be provided at no cost to eligible communities.

#### Water Loss Training for Tennessee Communities

The SRF Program is working to develop a contract focused on water loss training for TN communities, utilities, and commissions using a unique water loss data collection system and training methodology with a basic foundation in AWWA methods. This effort will aid utilities in determining where their water loss is originating and help them identify mitigation actions specifically for their systems. TDEC will work directly with a contractor to develop a customized training system based on the priorities of the Water and Wastewater Financing Board and the Utility Management Review Board of the Treasury to specifically address priorities related to water loss in the State of Tennessee, and to ensure objective and reproducible results that can be used to measure water loss in TN. The developed training program is tailored to issues researched by TDEC to address the needs of the state and incorporate the priorities of TNH20.

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### **Annual Report Requirements**

Section 606(d) of the CWA requires that, beginning the first fiscal year after receiving payments under the CWSRF, the State shall provide an Annual Report to EPA. The Annual Report shall be submitted to EPA within 90 days after the end of the fiscal year covered by the IUP. This report shall identify 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 CWSRF, population of the 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 and is incorporated herein by reference. Pursuant to sections 606(c)(4) (5) of the CWA, the State certifies that:

- The State will enter into binding commitments equal to at least 120% of each quarterly grant payment within one year after receipt of the payment
- The State will expend all funds in the CWSRF in an expeditious and timely manner
- Funds will first be used to assure maintenance of progress toward compliance with enforceable deadlines, goals, and requirements of the CWA
- The State agrees to commit or expend each quarterly capitalization grant payment in accordance with the state's own laws and procedures

In addition, the State certifies that it will conduct environmental reviews on wastewater facility projects in satisfying the National Environmental Policy Act (NEPA)-like requirements. The State's NEPA-like procedures are contained in the approved Operating Agreement.

### **Federal Fiscal Year 2019 Appropriations Bill and Other Requirements**

#### ***Subsidization***

The FFY 2019 CWSRF Capitalization Grant requires a portion of the funds to be allocated towards subsidy. The amount allowed for subsidization is a minimum of \$2,308,200, or 10% of the grant award. Eligible recipients of assistance from the SRF will receive subsidization

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in the form of principal forgiveness. Tennessee's CWSRF Loan Program developed a small and disadvantaged community principal forgiveness process that portions funds for disadvantaged communities with an Ability to Pay of less than 60%.

Additional subsidy may also be awarded to eligible communities for resilient or green projects that meet eligibility requirements for EPA SRF Green Projects, and for projects that demonstrate an in-kind-contribution that serves broader State interests (e.g., developing model projects for high priority wastewater infrastructure needs, or utilizing new and innovative approaches with the potential of replication across the state). SRF plans to pilot a small number of these projects in each fiscal year for communities that are willing to provide in-kind-contribution and undergo additional monitoring to determine the benefit of such projects to water quality and the State.

### ***Davis-Bacon***

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

### ***American Iron and Steel***

The American Iron and Steel (AIS) provision requires CWSRF and DWSRF assistance recipients to use iron and steel products that are produced in the United States. This

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requirement applies to projects for the construction, alteration, maintenance, or repair of a public water system or treatment works and if the project is funded through an assistance agreement executed beginning January 17, 2014.

The AIS provision is a permanent requirement for all CWSRF projects. The America's Water Infrastructure Act of 2018 extends the AIS provision for DWSRF projects through Fiscal Year 2023.

### ***Disadvantaged Business Enterprise (MBE)/Women's Business Enterprise (WBE) Goals***

MBE/WBE reporting is required in annual reports. Reporting is required for assistance agreements where there are funds budgeted for procuring construction, equipment, services, and supplies, including funds budgeted for direct procurement by the recipient or procurement under sub-awards or loans in the "Other" category that exceed the threshold amount of \$150,000, including amendments or modifications.

The State of Tennessee has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

MBE: CONSTRUCTION 2.6%; SUPPLIES 5.2%; SERVICES 5.2%; EQUIPMENT 5.2%

WBE: CONSTRUCTION 2.6%; SUPPLIES 5.2%; SERVICES 5.2%; EQUIPMENT 5.2%

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 Disadvantaged Business Enterprises (DBE) 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 and soliciting them whenever they are potential sources.

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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).

### ***Environmental Benefits***

To conform to EPA's Policy for Environmental Results under EPA Assistance Agreements, EPA Order 5700.7, and the Consolidated Appropriations Act of 2017, P.L. 115-31, The SRF Program agrees to comply with all requests for data by EPA related to the use of the funds under Subchapter VI of the CWA, and to report all uses of the funds within the CWSRF Benefits Reporting database no less than quarterly. This reporting will include but not be limited to data with respect to compliance with the Green Project Reserve.

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

The SRF Program reserves the ability to amend the IUP as needed to promote the efficient and effective administration of the 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.



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## **Appendix**

[Priority Ranking List](#) (PRL)