

# Guidelines and Requirements for Applying for Grants from the Clean Water Indian Set-Aside (CWISA) Program

## Revised Guidelines

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**FINAL DRAFT**



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1 **I. INTRODUCTION**

2 The U.S. Environmental Protection Agency (EPA) Office of Wastewater Management (OWM) developed  
3 these guidelines to document the current policies and procedures for the Clean Water Indian Set-Aside  
4 (CWISA) Program. The program mission is to protect public health and the environment and increase  
5 access to wastewater sanitation facilities for tribes. The CWISA Program was established by the 1987  
6 amendments to the Clean Water Act (CWA). It is governed by Section 518(c) of the CWA (Appendix A),  
7 which allows EPA to provide funding for the planning, design, and construction of wastewater treatment  
8 plant facilities that serve federally recognized Indian Tribes, Alaska Native Villages (ANV), and certain  
9 tribes in Oklahoma (referred to herein as “tribes”). The EPA Administrator has delegated the authority  
10 to award grants to tribes for wastewater infrastructure to the EPA Regions (Appendix B), which are  
11 responsible for the administration of the regional CWISA programs.  
12

13 These guidelines are designed to support consistency and transparency in program management to  
14 further EPA’s mission and to meet CWISA Program goals and objectives. They apply to the overall CWISA  
15 Program, including how funds are allocated to regions, responsibilities of regions in administering the  
16 CWISA Program, and overall administrative policies. These guidelines also define approaches for project  
17 eligibility, priority, and selection.

18 **A. Background**

19 From its inception in 1987 through federal fiscal year (FFY) 1990, Congress funded the CWISA Program  
20 by setting aside a percentage of funds appropriated for the Construction Grant Program (Title II of the  
21 CWA). In 1987, the Clean Water State Revolving Fund (CWSRF) Program was established (Title VI of the  
22 CWA). The CWSRF Program provides capitalization grant funding primarily to states, which in turn  
23 provide assistance to municipalities in the form of low interest rate loans for wastewater treatment  
24 projects.<sup>1</sup>  
25

26 Beginning in FFY 1992, Congress provided EPA the authority to take a 0.5% set-aside from CWSRF  
27 appropriation. The CWISA Program allocates its portion of CWSRF funds as grants. Tribes may apply for  
28 CWSRF loan funds from the state in which the project is located in addition to requesting grant funding  
29 through the CWISA Program.  
30

31 In 1989, EPA drafted *Guidelines and Requirements for Applying for Grants from the Clean Water Indian*  
32 *Set-Aside Program*, which was then revised in 1995. This 2013 guidelines document replaces and  
33 supersedes the 1989 and 1995 documents. In 2007, EPA published the *Clean Water Indian Set-Aside*  
34 *Grant Program Frequently Asked Questions* (referred to as the FAQ), which offered more succinct  
35 information about the CWISA Program to potential applicants. The FAQ is scheduled to be revised and  
36 republished in 2013/2014. Tribes interested in applying for CWISA Program funds should consult the  
37 FAQ available from the CWISA Program or online at <http://www.epa.gov/cwisa>.  
38

39 Although guidelines and requirements for the CWISA Program are based on the requirements of the  
40 Construction Grants Program found in 40 CFR Part 35, Subpart I, as well as the general grant  
41 requirements found in 40 CFR Part 31, CWISA Program requirements are more flexible and  
42 administratively simpler. As per the 1989 guidelines:  
43

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<sup>1</sup> Clean Water Act authority to fund CWISA ended in 1990 with the end of the construction grants program. EPA did not have Congressional authority to fund CWISA in 1991.

1           *Some aspects of this special set-aside program are somewhat different and more flexible than*  
2           *the Construction Grants Program ... The Indian Set-Aside Program simplifies administrative*  
3           *requirements. However, existing Construction Grant Program materials will be used to the*  
4           *extent they are compatible.*

5  
6 This 2013 guideline update followed the recent *Evaluation of the Drinking Water and Clean Water*  
7 *Infrastructure Tribal Set-Aside Grant Programs* final report (March 2011). Recommendations from this  
8 report on improving coordination between EPA Headquarters and the regions to reach the program's  
9 goals and to protect public health and the environment, are incorporated into the revised policies and  
10 procedures discussed herein.

11  
12 There are a number of federal laws, executive orders, and government-wide policies that apply  
13 additional terms to projects and activities receiving federal financial assistance, regardless of the  
14 requirements of the CWA. These "cross-cutting federal authorities" include environmental laws such as  
15 the National Historic Preservation Act, the Wild and Scenic Rivers Act, social and economic policy  
16 authorities such as Executive Orders on Equal Employment Opportunity, and government-wide  
17 debarment and suspension rules. These cross-cutting authorities apply to all EPA assistance agreements  
18 (both grants and interagency agreements [IAs] with Indian Health Service). A list of these cross-cutting  
19 laws is contained in Appendix C. A more detailed description of the Federal laws, Executive Orders,  
20 Office of Management and Budget (OMB) Circulars, and their implementing regulations is available  
21 through the Office of Grants and Debarment (OGD) Grants Intranet website at  
22 <http://intranet.epa.gov/ogd/> or through the Regional Grants Management Office.

## 23           **B.       Program Goals and Performance Measures**

24 The CWISA Program's primary goal is to protect public health and the environment in Indian country by  
25 increased access to basic sanitation facilities for tribal residents. By working towards this goal, the  
26 program is also supporting EPA's *FY2011-2015 Strategic Plan* as well as the Government Performance  
27 and Results Act (GPRA) structure, which is used to measure EPA's progress in meeting its strategic goals.  
28 Currently, Goal 2 of EPA's Strategic Plan, Protecting America's Waters, Objective 2.1: Protect and  
29 Restore Watersheds and Aquatic Ecosystems, contains one measure by which the CWISA Program is  
30 evaluated:

31  
32           *Number of American Indian and Alaska Native homes provided access to basic sanitation in*  
33           *coordination with other federal agencies (cumulative). (By 2015: 77,600 homes) (Measure #*  
34           *WQ-24)*

35  
36 At the CWISA Program level, OWM tracks the percent of American Indian and Alaska Native homes  
37 lacking access to basic sanitation in accordance with EPA's Strategic Plan and evaluates the  
38 improvements to this performance measure over time. The definition of access to basic sanitation is  
39 related to the deficiency level (DL) of the tribal homes within an Indian Health Service (IHS) Area  
40 community as assigned by the IHS, which ranges between 1 and 5, with DL 5 being the greatest  
41 deficiency to access (Table 1).

1 **Table 1: IHS Sanitation Deficiency Level Descriptions**

Sanitation Deficiency Level	Description
DL 5	An Indian tribe or community that lacks a safe water supply and a sewage disposal system.
DL 4	An Indian tribe or community with a sanitation system which lacks either a safe water supply system or a sewage disposal system.
DL 3	An Indian tribe or community with a sanitation system which has an inadequate or partial water supply and a sewage disposal facility that does not comply with applicable water supply and pollution control laws, or has no solid waste disposal facility.
DL 2	An Indian tribe or community with a sanitation system which complies with all applicable water supply and pollution control laws, and in which the deficiencies relate to capital improvements that are necessary to improve the facilities in order to meet the needs of such tribe or community for domestic sanitation facilities.
DL 1	An Indian tribe or community with a sanitation system which complies with all applicable water supply and pollution control laws, and in which the deficiencies relate to routine replacement, repair, or maintenance needs. A minimum level of technical assistance is required from the IHS. Note: Level 1 deficiencies are the responsibility of the respective tribe or others. Level 1 deficiencies will have lower priority ranking and will not be on the list requesting funding but will be reported to Congress as a deficiency.

2 Source: Guide for Reporting Sanitation Deficiencies for Indian Homes and Communities: Working Draft (May 2003). IHS, Office  
 3 of Environmental Health and Engineering, Division of Sanitation Construction, available online at: <http://www.ihs.gov/dsfc/>  
 4

5 Progress is made towards this measure when funded projects decrease the initial deficiency level of  
 6 homes from either 5 or 4, which represent homes that lack access to basic sanitation, to a final DL of 3,  
 7 2, or 1.  
 8

9 In 2000 the United States made commitments at the World Summit on Sustainable Development and  
 10 agreed to support a United Nations Millennium Development Goal to improve access to safe drinking  
 11 water and basic sanitation around the world. As one way to meet this commitment, the CWISA Program  
 12 coordinates nationally with other federal partners through the Tribal Infrastructure Task Force (ITF) to  
 13 measure and improve the performance of tribal programs to meet the goal of increased access. The ITF  
 14 is an inter-agency group initiated under a 2007 memorandum of understanding (MOU) among EPA, IHS,  
 15 U.S. Department of Agriculture (USDA), Department of the Interior (DOI), and Department of Housing  
 16 and Urban Development (HUD). In November 2011, the task force refocused its commitment to support  
 17 increased access to basic sanitation (and safe drinking water) in Indian country by encouraging increased  
 18 sustainability of tribal infrastructure. In March 2013 the ITF federal partners confirmed their  
 19 commitment to coordinate and share resources by signing an MOU renewal to provide sustainable,  
 20 long-term access to safe drinking water and basic sanitation in Indian Country. The CWISA Program will  
 21 work with the ITF<sup>2</sup> and its partners to the greatest extent practicable in meeting CWISA and ITF goals  
 22 and objectives.

23 **C. Program Overview**

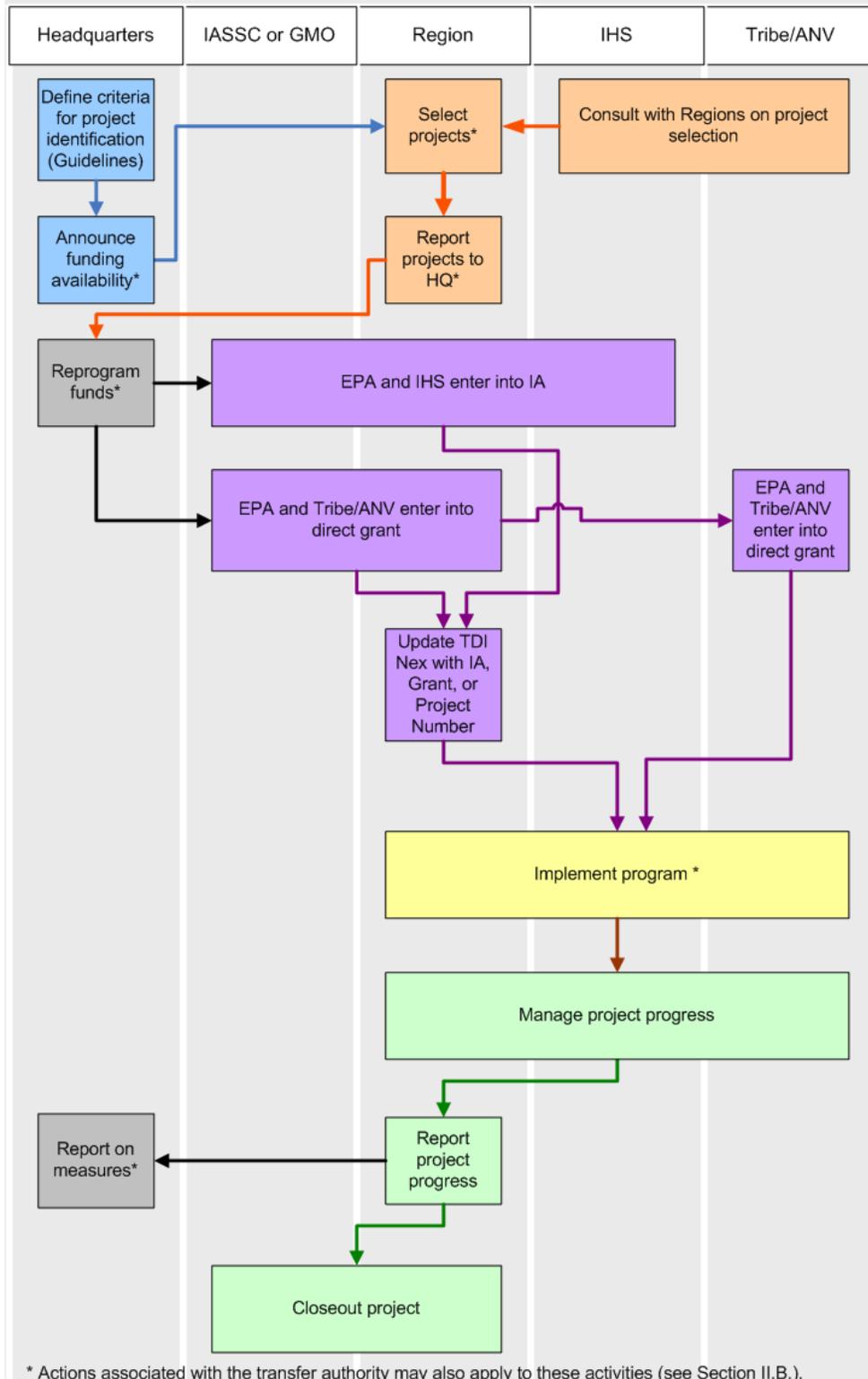
24 There are many active partners that participate in the CWISA Program. Each has responsibilities  
 25 throughout the different stages of the program, from developing these Guidelines, project selection,  
 26 dispersing funds, and managing project construction progress. Figure 1 provides an overview of the  
 27 CWISA Program activities and the overarching roles and responsibilities of agencies and offices that

<sup>2</sup> More ITF information including the MOU are at: <http://www.epa.gov/tp/trprograms/infra-water.htm>

1 participate in the program. The primary partners are EPA Headquarters, Interagency Agreement Shared  
 2 Service Center (IASSC) West, EPA's Grants Management Office (GMO), EPA Regions, IHS, and  
 3 tribes/ANVs.

4

**Figure 1: CWISA Program Roles and Responsibilities**



5

1 **II. PROGRAM FUNDING**

2 The award funding process for the CWISA Program begins with Congressional appropriation of funds to  
3 the EPA Clean Water SRF Program. OWM then issues an annual memo to regions about the availability  
4 of tribal set aside funds and the amount by IHS area. Regions identify eligible projects and submit these  
5 projects to OWM. OWM in turn reprograms funds to regions for these projects, and regions begin the  
6 award process by consulting with IHS and tribes about administering program funds to specific projects.

7 **A. Allocation of Funds to EPA Regions**

8 Funding for the CWISA Program is provided as a percentage of appropriations to the SRF Program. The  
9 CWA declares that the CWISA Program will receive 0.5% of the overall SRF appropriation; however, over  
10 time the annual Congressional appropriations have increased the percentage to 2%. The percentage is  
11 defined annually in the appropriation from Congress and can change in future appropriations.  
12

13 The amount of funding available to an EPA Region is based on its tribal wastewater needs, as identified  
14 in the IHS Sanitary Deficiency System (SDS) database. The SDS database maintains an inventory of  
15 sanitation deficiencies for new and existing Indian homes and communities. The database is updated  
16 annually to account for inflation and changing state and federal standards; to add new deficiencies; and  
17 to delete deficiencies that have been addressed by projects funded by IHS and other entities such as  
18 EPA. Annually in November, a “snapshot” of the database is taken and projects listed in the system at  
19 that time are the only ones considered when projects are identified for the FFY appropriations. As noted  
20 later in these guidelines, only projects listed in the SDS database are eligible for CWISA Program funds.  
21

22 Under ordinary circumstances, the President submits a budget request to Congress in early February of  
23 each year to fund the following FFY. Once funds are appropriated by Congress and OWM receives  
24 notification of the final CWISA Program budget for that FFY, OWM will distribute a memo describing the  
25 CWISA funding for that fiscal year and how it is allocated. The distribution of funds is based on an IHS  
26 Area’s percentage of total wastewater need in the SDS database. For example, if an IHS Area has 15% of  
27 the total need listed in the SDS database, than that Area Office is allocated 15% of the annual CWISA  
28 Congressional allotment. The needs calculations are based on IHS identified feasible<sup>3</sup> wastewater need,  
29 not total wastewater need. As an example, Table 2 describes the FFY 2012 wastewater (sewer) need and  
30 CWISA regional funding allocations.  
31

32 As demonstrated in Table 2, EPA Regions and IHS Area boundaries differ (Figure 2). In some instances,  
33 an EPA Region may overlap more than one IHS Area, and more than one EPA Region can be in a single  
34 IHS Area. Given that funding is allocated based on identified need by IHS Area, regions within the same  
35 IHS Area are to work together to prioritize projects in that Area. Regions and IHS Area Offices should  
36 plan to coordinate on project selection and prioritization to achieve maximum impact, reduce  
37 duplication of effort, and leverage resources to support program goals.

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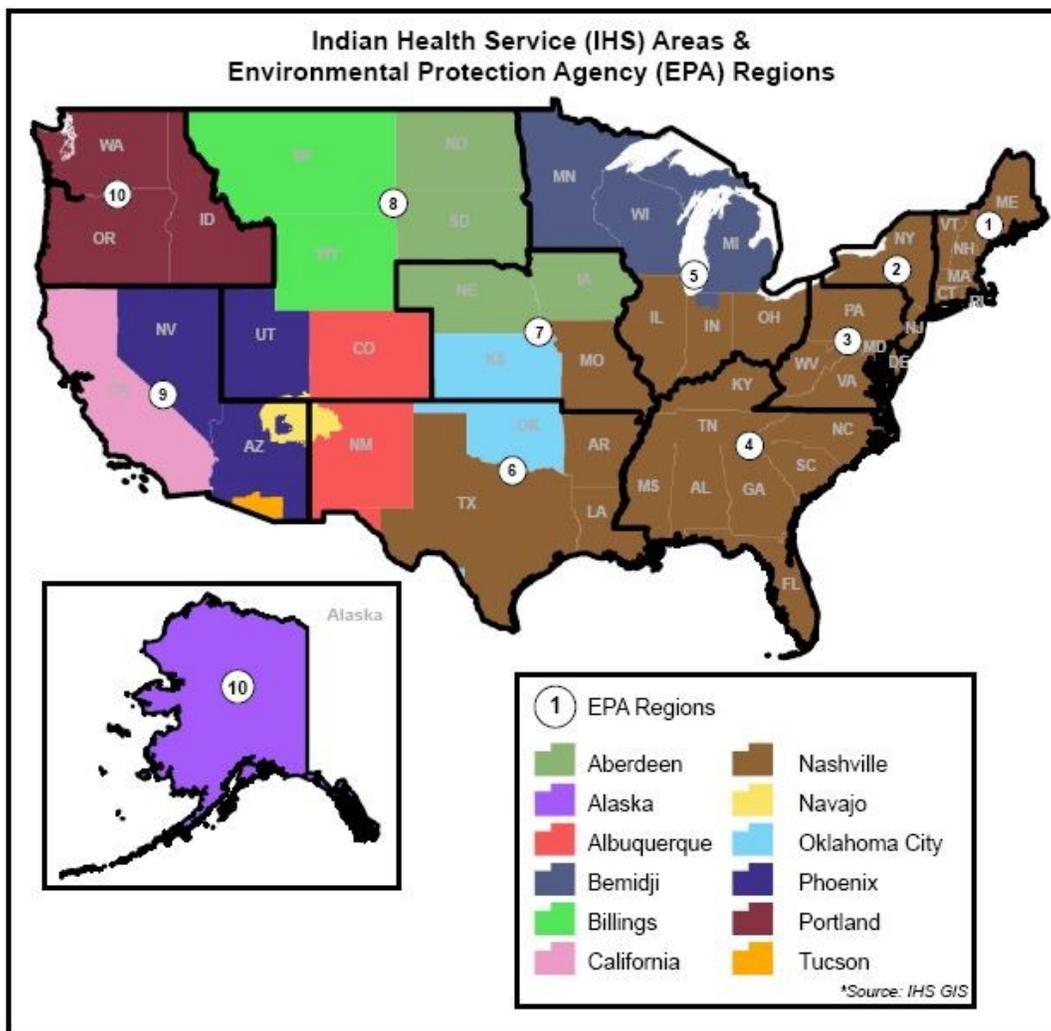
<sup>3</sup> Feasible is defined by IHS as economically feasible based primarily on the threshold unit costs set for each state.

1 **Table 2: FY 2012 Clean Water Indian Set-Aside Funding Allocations by IHS Area**

IHS Area	FY12 Wastewater Need *	Percent of Total Sewer Need	FY12 EPA CWISA Funding Level	EPA Region Applicability
Aberdeen	\$33,616,368	5.6%	\$1,643,737	7 & 8
Albuquerque	\$42,756,756	7.2%	\$2,090,674	6 & 8
Anchorage	\$167,099,242	28.0%	\$8,170,640	10
Bemidji	\$29,067,490	4.9%	\$1,421,311	5
Billings	\$17,909,012	3.0%	\$875,696	8
California	\$48,501,139	8.1%	\$2,371,557	9
Navajo	\$90,649,197	15.2%	\$4,432,467	6, 8 & 9
Nashville	\$15,944,900	2.7%	\$779,657	1, 2, 4 & 6
Oklahoma City	\$82,947,890	13.9%	\$4,055,897	6 & 7
Phoenix	\$32,826,410	5.5%	\$1,605,111	8 & 9
Portland	\$32,710,426	5.5%	\$1,599,439	10
Tucson	\$1,800,000	0.3%	\$88,014	9
<b>TOTAL:</b>	<b>\$595,828,830</b>	<b>100%</b>	<b>\$29,134,200</b>	

2 \*Sewer (wastewater) need calculated from the November 1, 2011 SDS database snapshot.

3 **Figure 2: IHS Areas and EPA Regions**



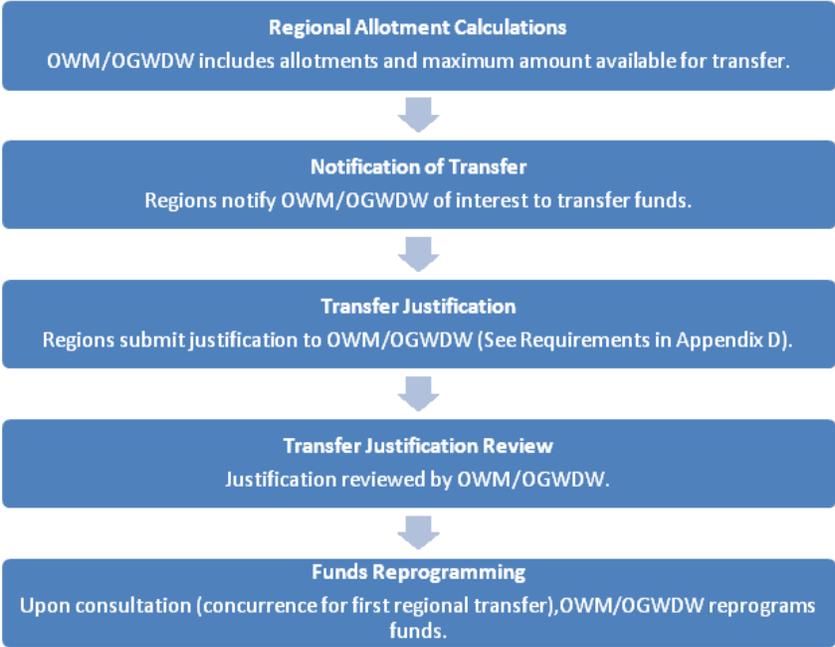
1 For planning purposes, the CWISA regional funding levels can be estimated from the President’s budget.  
2 This may be useful to a region if it is evaluating the potential to transfer funds between the CWISA  
3 Program and the Drinking Water Infrastructure Grant Tribal Set-Aside (DWIG-TSA) Program as discussed  
4 below in Section II. B.

5  
6 Once OWM notifies regions of the allotments by IHS Area, regions have 60 days to select projects and  
7 notify OWM of their allocation of funds to the tribes. OWM will reprogram funds to the regions after  
8 their projects have been identified and approved by OWM. It should be noted that all funds that support  
9 projects for the Navajo Nation are administered through EPA Region 9.<sup>4</sup> The Catalog of Federal  
10 Domestic Assistance (CFDA) code for the CWISA program is the same as for the CWSRF, which is 66.458,  
11 Capitalization Grants for Clean Water State Revolving Funds.

12 **B. Transfer Authority between the Tribal Set Aside Programs**

13 In FFY 2012, Congress provided EPA with the authority to transfer funds between the DWIG-TSA and  
14 CWISA Programs up to an amount that is equivalent to 33% of a region’s DWIG-TSA allotment. EPA  
15 began implementing this authority in FFY 2013. The transferred funds may be used to fund projects that  
16 are related to either drinking water or clean water infrastructure and will provide the greatest public  
17 health benefit to tribes. To determine the amount of funds that could be transferred in each region,  
18 OWM and the Office of Ground Water and Drinking Water (OGWDW) provide funding levels based on  
19 EPA Regions. For the first transfer within each region the Regional Administrator must obtain EPA  
20 Headquarters’ concurrence. For transfers subsequent to the first transfer, the regions are to consult  
21 with EPA Headquarters through notification of the intent to transfer and a transfer justification. Figure 3  
22 provides an overview of the transfer process for both the CWISA and DWIG-TSA Programs. Appendix D  
23 contains the guidelines that outline the process for an inter-program funds transfer.

24  
25 **Figure 3: Overview of Transfer Authority Process**



26  
<sup>4</sup> September 9, 1991. Memorandum of Agreement between the Navajo Nation and EPA Regions 6, 8 and 9 Regarding the Implementation of Environmental Standards and Regulations on the Navajo Nation.

1 **III. PROJECT ELIGIBILITY**

2 Project eligibility is based on both the funding recipient and the type of project activity. Applicants  
3 themselves must be eligible recipients of funds. CWISA Program funds can only be used for projects that  
4 will increase a tribe’s or ANV’s access to wastewater sanitation, and these projects must be listed in the  
5 IHS SDS database. The following sections provide details on who can receive CWISA Program funds and  
6 how regions can determine which project activities are eligible for funding.

7 **A. Recipient Eligibility**

8 Any Indian tribe, band, group, or community recognized by the Bureau of Indian Affairs is eligible for  
9 funding through the CWISA Program, unless they have been deemed ineligible to receive federal funds  
10 by another agency or department of the federal government. Former Indian reservations in Oklahoma,  
11 as determined by the Secretary of the Interior, as well as ANVs are also eligible. Tribes and ANVs are  
12 defined by Congress and lists are updated as needed in the Federal Register (the most recent list is in  
13 Federal Register, Volume 78, Number 87 dated May 6, 2013 [78 FR 26384]).  
14

15 There is no formal limit on service to non-native people living in a CWISA project service area. The CWA  
16 states that grants shall serve federally recognized tribes. Generally, a sanitation project that improves  
17 access for members of a federally recognized tribe can receive funding regardless of the number of non-  
18 tribal residents living in the service area.  
19

20 **B. Project Eligibility**

21 CWISA Program funds are used to develop wastewater treatment management plans, prepare design  
22 documents, and construct wastewater treatment works for federally recognized tribes. Funds should be  
23 used to support the program goal to increase access to wastewater sanitation for Indian tribes and  
24 ANVs. Projects must be listed on the IHS SDS database in order to receive CWISA funds. To the  
25 greatest extent practical projects should include sustainability concepts to ensure the wastewater  
26 infrastructure meets or exceeds its design life.  
27

28 Eligible projects that can be funded through the CWISA are identified by these Guidelines, and, where  
29 consistent with these Guidelines, by the government-wide cost principles (e.g. OMB Circular A-87) and  
30 EPA regulations in Appendix A of 40 CFR, Part 35, Subpart I. Projects eligible for CWISA Program funds  
31 must be related to wastewater system infrastructure, and can include consideration of advancements in  
32 new technology to treat wastewater. Examples of CWISA eligible activities include:  
33

34 **Project Planning and Design**

- 35 • Preparation of a preliminary engineering report (PER);
- 36 • Acquisition of land parcels that are an integral part of the wastewater treatment process or used  
37 for the ultimate disposal of treatment residues;<sup>5</sup> and
- 38 • Travel costs associated with planning and design, site inspections, and construction  
39 administration.  
40  
41

---

<sup>5</sup> Non-discharging lagoons are one type of treatment for which land costs are eligible. Grant funds cannot pay for acquisition for right-of-way access, unless the land will be an integral part of the treatment process.

1       **Infrastructure Construction**

- 2       • Construction of centralized wastewater treatment facilities (conventional or alternative);
- 3       • Major sewer rehabilitation;
- 4       • Decentralized, onsite wastewater treatment systems;
- 5       • Collector sewer pipelines;
- 6       • Correction of combined sewer overflow systems;
- 7       • Construction of modular bathrooms provided that wastewater is treated (e.g., composted or
- 8       incinerated) within the bathroom system;<sup>6</sup> IHS has recommended modular bathrooms can be
- 9       the best interim solution in certain cases where buildings lack indoor plumbing;<sup>7</sup>
- 10      • The construction of ancillary plumbing facilities such as a bathroom or laboratory sink within a
- 11      new or upgraded treatment works plant;
- 12      • Infrastructure associated with biosolids management, such as equipment to support sludge
- 13      drying, transportation, pelletization and/or land application;
- 14      • Wastewater collection and treatment for homes built with HUD funds;<sup>8</sup>
- 15      • Purchase of wastewater pumping & hauling vehicles; and
- 16      • Lateral/service lines to existing homes that will increase access to basic sanitation. A “lateral
- 17      connection” is a conveyance pipe from the property line that connects to an offsite sewage
- 18      collection system via a lateral or main pipe. The term “lateral connection” does not include the
- 19      pipe from an individual house to the property line. In communities that do not have defined
- 20      property lines, lateral connections can be provided up to five feet from an individual house.<sup>9</sup>

21  
22       **Project Follow-Up**

- 23      • Drafting as-built drawings of the funded wastewater treatment systems;
- 24      • Developing site specific operation and maintenance (O&M) manuals for equipment directly
- 25      associated with the project;
- 26      • Creating and posting a certificate to operate;
- 27      • Replacement parts (e.g., pumps, motors) for equipment directly associated with the project and
- 28      necessary to assure uninterrupted operation of the facility, provided they are critical parts or
- 29      major systems components which are: (1) not immediately available and/or whose procurement
- 30      involves an extended ‘lead-time;’(2) identified as critical by the equipment supplier(s); or (3)
- 31      critical but not included in the inventory provided by the equipment supplier(s);
- 32      • Chemicals for one year following construction completion (unless contractually described
- 33      otherwise) for equipment directly associated with the project;
- 34      • Sampling and monitoring for one year following construction completion;
- 35      • Costs associated with the training of operators on new equipment or infrastructure as long as
- 36      training occurs within one year of construction completion. This can include travel costs needed
- 37      for operators to be trained on new infrastructure specifically associated with the project;

---

<sup>6</sup> Modular bathrooms are often pre-fabricated, portable facilities with basic bathroom amenities. In 2009, basic units cost between \$7,500 and \$8,500 including handicap fixtures; installation is more cost-effective when facilities are constructed as a bundled group of 15-20 (at a minimum) units. Information collected from IHS Tucson Modular Bathroom Project 2009 Briefing Paper (October 22, 2009).

<sup>7</sup> IHS Tucson Modular Bathroom Project 2009 Briefing Paper (October 22, 2009).

<sup>8</sup> IHS does not permit the use of IHS funds for HUD homes; however, CWISA funds may be used for HUD homes.

<sup>9</sup> Appendix A of 40 CFR, Part 35, Subpart I (Construction Grants regulations) state that funding for lateral connections is an allowable cost for small wastewater systems (Determination of Allowable Costs, Section C). IHS has used CWISA funding to provide lateral connections up to five feet from an individual home.

- The ordinary operating expenses of a local government related to the infrastructure construction (e.g., preparation of routine financial reports and studies, preparation of applications and permits, etc.) only during construction and within one year following construction completion; and
- Costs for mobile equipment necessary for the operation of the overall wastewater treatment facility, transmission of wastewater or sludge, or for the maintenance of equipment, these items include: (1) portable stand-by generators; (2) portable emergency pumps to provide “pump-around” capability in the event of pump station failure or pipeline breaks.

Consistent with the goals of the ITF, Tribes and regional Staff are encouraged to consider projects that increase the sustainability and longevity of existing and proposed sanitation facilities. Projects may include the following, provided they are directly related to the current or future improvement or upgrade of infrastructure and meet CWISA Program access goals. Should a region choose to fund these types of projects, it is the region’s responsibility to document how the project meets the program’s goal and direction under the CWA and how the selected project is prioritized above other potential projects. Eligible projects or facets of projects that support the long term operation of sanitation facilities may include:

- Development of an asset management plan. Asset management is an important component of a utility’s long term management plan and provides needed information on the need for, and timing of, future infrastructure improvements that will help support the sustainability of a utility and allow the tribe to better plan for improvements.
- Inflow/infiltration planning studies that identify and prioritize critical infrastructure upgrades to improve the efficiency of operations can use CWISA funds, including conducting camera assessments of pipes to determine their condition – as long as there is a reasonable expectation that the planning study will result in a capital project.

Projects that are not related to wastewater system infrastructure are ineligible for CWISA Program funds. Examples of ineligible activities include:

- Travel for activities not specifically associated with the project such as general staff training;
- Indoor residential plumbing facilities such as sinks, commodes, tubs, and drains that do not provide treatment on their own, and are not associated with the construction of treatment works facility;
- Operator training beyond task-specific operations for new equipment or technology;
- Operator wages;
- Construction of wastewater treatment works that don’t provide service to residential homes (e.g. casinos, truck stop, etc.);
- Routine sampling and monitoring more than one year after system start up;
- Utility bills associated with utility operations;
- Ongoing O&M costs. The CWA does not define the term “construction” to include operation and maintenance. CWISA Program funds cannot be used to pay for the cost of O&M of the wastewater facility, nor can they be used to pay for repairs to the treatment system in emergency situations;
- A project specifically designed to meet projected population growth is not eligible for CWISA funds; however, a facility constructed to meet existing needs is typically designed with flexibility to accommodate some future expansion. A project that was submitted primarily to meet future

1 needs (such as projects necessary to meet projected population growth) is ineligible for CWISA  
2 funding; and

- 3 • Greater than one year following construction completion and issuance of final report, the  
4 ordinary operating expenses of a local government, even as it relates to the infrastructure  
5 construction project (e.g., salaries and expenses of elected or appointed officials, preparation of  
6 routine financial reports and studies, preparation of applications and permits, expenses related  
7 to bond issuance, electricity, etc.).  
8

## 9 **IV. PROJECT SELECTION**

10 Projects are selected by regions from the IHS SDS database priority list. Regions may coordinate with  
11 other EPA Regions and IHS Areas to select projects with the highest priority that meet the greatest need.  
12 These projects are then submitted to OWM as discussed under the Ongoing Project Management  
13 section.  
14

### 15 **A. IHS Sanitary Deficiency System**

16 Since 1995, regions have been directed to identify projects for CWISA Program funds from the IHS SDS  
17 database.<sup>10</sup> The SDS database is one of six components of the Sanitation Tracking and Reporting System  
18 (STARS), a web-based database that is used by IHS to calculate metrics and track its program's progress.  
19 The SDS database maintains a list of sanitation infrastructure deficiencies and prioritizes projects to  
20 address Indian homes that lack access and have the greatest need.  
21

22 Each IHS Area Office is responsible for tracking potential projects to remedy tribal needs or deficiencies  
23 as well as for conducting deficiency evaluations of each project in order to prioritize projects. For  
24 projects with multiple phases, each phase usually is evaluated separately. Each Area uses the same SDS  
25 project evaluation methodology, which considers eight factors with unique point ranges.<sup>11</sup> The major  
26 objective is for IHS Areas to use these factors and point ranges to uniformly evaluate proposed  
27 sanitation facility projects within the Area. The eight factors are briefly described below:  
28

- 29 • Health impact: The reporting of a disease or other adverse human health effect that is directly  
30 attributable to water, sewer, or solid waste, or a water, sewer, or solid waste condition that  
31 could adversely impact human health, but has not affected it at that time.  
32
- 33 • Existing deficiency level: Each deficiency level is assigned points.  
34
- 35 • Adequate previous service: Piped water and sewer were brought into the home (except for  
36 some remote arctic and desert locations) by IHS or with other federal funds and the sanitation  
37 facilities provided met the existing standards at the time.  
38
- 39 • Capital cost: The unit cost of the proposed facilities is compared to the average unit cost (not  
40 the allowable unit cost) of all water, sewer, and solid waste services in the IHS Area.  
41

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<sup>10</sup> Stephen P. Allbee, March 21 1995, Memorandum: Notice of Change – Indian Set-Aside Program National Project Priority List.

<sup>11</sup> IHS 2003 SDS Working Draft, online at: <http://www.ihs.gov/dsfc/>

- 1 • Local tribal priority: IHS Area Offices consult with tribes. Tribal priority setting should be based  
2 on established tribal procedures which give consideration to health conditions.  
3
- 4 • O&M capability: Based on past performance and current tribal intent and capability. The "ability  
5 to afford" the proposed facilities should be factored into the score.  
6
- 7 • Tribal contributions: This is an optional factor per collective tribal consultation and should be  
8 applied uniformly for all tribes and all projects across the IHS Area. Area Offices are instructed  
9 to prorate points based on the amount of contributions received from other sources. The  
10 contributed funds must be available to be spent during the next fiscal year.  
11
- 12 • Local conditions: This factor should only used as a negative value and only with specific tribal  
13 concurrence. Points for this factor should only be assigned in unusual situations and only by the  
14 Director, Division of Sanitation Facilities Construction, for the IHS Area. Some reasons for  
15 assigning points under this factor might be the need to phase projects, a backlog of current  
16 projects, or project impediments such as legal or jurisdictional disputes.

## 17 **B. Selection Procedures**

18 The CWA requires that the projects selected to receive funds are to address water quality and public  
19 health needs. Annually, in early November, OWM CWISA staff are scheduled to provide the IHS SDS  
20 priority lists to regions based on the annual IHS SDS database snapshot. The entire SDS priority list for  
21 each IHS Area is composed of two separate files. One file is a list of "included" projects in each Area  
22 which is IHS's list of projects that they reported to Congress. The second file is of "excluded" projects in  
23 each Area, which are projects contained in the SDS, but not reported to Congress by IHS as eligible IHS  
24 projects. These include projects that can be funded by other agencies but not by IHS, such as sanitary  
25 facilities for HUD funded homes. Together, the two files make up the entire SDS priority list for each IHS  
26 Area. CWISA may fund projects that are on either list.  
27

28 Using the SDS lists the CWISA Program project selection process is as follows:  
29

- 30 1. Regions select projects from the SDS list, which is generated from the most recent SDS database  
31 snapshot (typically done during the second week of November of each year).
- 32 2. Regions, working together and with IHS, start from the highest priority at the top of the list and  
33 work down the list to identify projects, regardless of EPA Region, until all CWISA funds are  
34 associated with defined projects.
- 35 3. Regions select projects that are within the range of CWISA funding or the combined funding  
36 from CWISA and other federal agencies for the respective IHS Area.
- 37 4. Regions may not skip over projects that are within the range unless there is a compelling reason  
38 to do so. In such cases, the EPA Region is to provide an explanation to OWM for discussion and  
39 approval.

40 The CWISA program often funds projects that require the development of a Preliminary Engineering  
41 Report (PER) that documents the existing facilities, the deficiency, alternatives and costs. The existence  
42 of a PER is a ranking criteria within the eight IHS evaluation factors. As part of the ITF efforts, federal  
43 agencies have collaborated to develop consistent requirements and a standardized template for PERs  
44 submitted to all federal agencies that build tribal wastewater infrastructure, which is provided in  
45 Appendix E. The standardized PER makes it easier for tribes to receive funding from more than one  
46 federal source and simplifies coordination between federal agencies. No CWISA funds will be awarded

1 without the submission of a PER in accordance with the standardized template, unless it is determined  
2 that a PER is not required. If a proposed project is limited in scope, EPA regional staff and/or IHS can  
3 decide that a PER is not required. Examples of a limited scope project that may not need a PER may  
4 include onsite septic system installation, or a lift station pump replacement.

5  
6 If the development of a PER is chosen for CWISA funding, regional staff are encouraged to use  
7 professional judgment in evaluating the cost of PER preparation based on local conditions within their  
8 region. The project associated with the report may be funded in a future fiscal year when the report is  
9 complete (even if the paperwork closing out the PER completion project is not complete). The project  
10 may remain on the SDS list while the PER is developed, and will likely be ranked higher on the SDS list  
11 upon completion of the PER.

12  
13 The availability of a certified operator is part of the IHS ranking criteria as well and therefore will  
14 increase the prioritization of a project on the SDS list. Under the CWA, applicants to the CWISA Program  
15 are not required to have a certified wastewater operator;<sup>12</sup> however, it is encouraged by EPA. When  
16 regions select projects for the CWISA Program, a region should consider that a certified operator will  
17 greatly increase the sustainability of a system, improve public health and environmental protections,  
18 and ensure that funds are applied to projects with long-term O&M capacity.

### 19 **C. Coordination with Partners on Project Selection**

20 Using the SDS, IHS and EPA work together to prioritize projects with the greatest need. If a region  
21 overlaps with more than one IHS Area, all Area Offices must be consulted. Likewise, if more than one  
22 EPA Region is within a single IHS Area, regions must work together in identifying projects. These  
23 processes require EPA to have access to STARS. EPA regional staff are to contact their local IHS Area  
24 Office to gain access to STARS for that Area. Access to STARS is unique for each IHS Area; therefore,  
25 some regions will need access for multiple Areas. Regions and IHS Area Offices should plan to  
26 coordinate on project selection and prioritization to achieve maximum impact, reduce duplication of  
27 effort, and leverage resources to support program goals.

### 28 **D. Reprogramming Funds from Headquarters to Regions**

29 After EPA Regions have consulted with the appropriate parties and identified projects, they will submit  
30 information for each project to OWM. Once project information is received, reviewed, and approved by  
31 OWM, the funds will be reprogrammed from OWM to the region. Following project identification, the  
32 region will need to provide to OWM and IASSC the EPA grant or IA number and the IHS Project Data  
33 System (PDS) number, as appropriate. Headquarters will use this information to track project progress.

34  
35 Regional staff are to submit this information to OWM through the EPA Tribal Clean Water Program  
36 Direct Implementation Nexus (TDI Nex). The purpose of TDI Nex is to provide a comprehensive picture  
37 of the CWISA Program and to demonstrate the realized public health benefits of CWISA projects.  
38 Gathering information through TDI Nex allows OWM to respond to EPA management, Congress, tribes,  
39 and other stakeholders that request information on the accomplishments achieved through the  
40 program. This system also allows the regions access to aggregate CWISA program data. TDI Nex is  
41 discussed further in Section VI. B. and its guidelines are in Appendix F.

42  

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<sup>12</sup> The CWA does not provide EPA with the authority to require a certified wastewater treatment plant operator; the SDWA does provide the authority for the DWIG-TSA program.

1 Information about each funded project must include (to the practical extent possible) the following:  
2

- 3 1. Project name;
  - 4 2. Project description;
  - 5 3. Tribe/ANV name;
  - 6 4. IHS Area name;
  - 7 5. IHS SDS number;
  - 8 6. SDS priority number;
  - 9 7. Amount of CWISA funds requested;
  - 10 8. Total project cost;
  - 11 9. Number of homes served by the project;
  - 12 10. IHS SDS initial deficiency level for the project;
  - 13 11. IHS SDS final deficiency level for the project;
  - 14 12. Funds to be distributed through a direct grant with a tribe or an IA with IHS; and
  - 15 13. Project type<sup>13</sup> (piping, treatment, onsite, planning, etc.).
- 16

## 17 **V. PROJECT INITIATION**

18 The CWISA Program is managed locally by nine of the ten EPA Regions which oversee tribal programs.  
19 EPA Region 3 is not included as there are currently no federally recognized tribes within this region.  
20 Regions are responsible for identifying and prioritizing projects that meet program goals, ensuring that  
21 the funds are obligated in a timely fashion, and monitoring and tracking projects through completion.

### 22 **A. Project Award**

23 Once regions are notified of their allotment for the FFY, they work with the local IHS Area Office to  
24 identify projects for funding from the SDS list. Since the IHS Area and EPA Regional boundaries differ,  
25 coordination between the regions and IHS Areas will be necessary to identify projects and regional  
26 allocation.

27  
28 Following project identification, regions notify the selected tribes of their project selections. Should a  
29 tribe decline to participate in a project, EPA and IHS will revisit the SDS lists from the previous November  
30 snapshot to identify additional eligible project(s) until all funding for the FFY has been obligated.

### 31 **B. Direct Grants and Interagency Agreements**

32 Once a tribe is notified of its award, they have two methods they can use to implement the project.  
33 They may request to administer the project funds themselves through a direct grant, or they may  
34 request that IHS administer the project funds for them.<sup>14</sup> To qualify for a grant, the tribe must meet the  
35 grant requirements listed in Appendix H and the region must determine that the tribe has the necessary  
36 capacity to successfully complete the project, following an approved grant work plan. EPA regions work  
37 with the tribe to determine how to best administer the project. In either situation, EPA Regions are  
38 responsible for managing the award and for administering and tracking project progress after award.  
39 There are a number of federal laws, executive orders, and government-wide policies that apply

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<sup>13</sup> Project types or infrastructure categories are further described in Appendix G.

<sup>14</sup> Between 2003 and 2009, approximately 95% of CWISA funds were distributed through IAs with IHS (Evaluation of the Drinking Water and Clean Water Infrastructure Tribal Set-Aside Grant Programs final report, March 2011).

1 additional terms to projects and activities that receive federal financial assistance. A list of these cross-  
2 cutting laws is contained in Appendix C.

### 3 **1. Direct Grant**

4 The CWA gives EPA the authority to award grants directly to tribes. All tribes recognized by the Bureau  
5 of Indian Affairs are eligible to receive grants from the CWISA Program unless they have been deemed  
6 ineligible to receive federal funds by another agency or department of the federal government.

7  
8 Direct grants to tribes through the CWISA Program are subject to EPA assistance agreement regulations,  
9 OMB cost principles, the Cash Management Improvement Act, and additional EPA policies. To qualify for  
10 a grant, the tribe must meet the grant requirements listed in Appendix H and the region must determine  
11 that the tribe has the necessary capacity to successfully complete the project, following an approved  
12 grant work plan. If EPA approves a tribe's request to administer the grant itself, a grant agreement is  
13 signed between EPA and the tribe and grant regulations must be followed.

14  
15 The grants must be awarded and managed as any other assistance agreement. The Office of Grants and  
16 Debarment (OGD) has developed Orders, Grants Policy Issuances (GPIs) and directives to assist project  
17 officers and program offices in fulfilling and understanding their responsibilities.<sup>15</sup> Several grant  
18 requirements are discussed further in Appendix H, which describes the requirements to be met for a  
19 direct grant through EPA.

20  
21 CWISA projects that are administered through direct grants with EPA are exempt from National  
22 Environmental Policy Act (NEPA) requirements;<sup>16</sup> however, there is a voluntary NEPA process available  
23 to tribes (further details in Appendix I). Projects administered through IAs must follow the  
24 environmental review requirements of IHS.

25  
26 Currently EPA Order 5700.7, *Environmental Results under EPA Assistance Agreements*,<sup>17</sup> applies to all  
27 funding packages submitted to the Grants Management Offices and is implemented through existing  
28 regulatory requirements for work plan development and performance evaluation in 40 CFR Part 35. The  
29 Order requires EPA project officers to, among other things:

- 30  
31
  1. Link proposed assistance agreements to EPA's Strategic Plan/GPRA architecture;
  - 32 2. Ensure that outputs and outcomes are appropriately addressed in assistance agreement work  
33 plans and funding recommendations; and
  - 34 3. Ensure that progress in achieving agreed-upon outputs and outcomes is adequately addressed  
35 in recipient progress reports and advanced monitoring activities.

36  
37 EPA Order 5700.7 also establishes requirements for project officer review of construction and non-  
38 construction, as well as interim and final recipient performance reports for progress in achieving outputs  
39 and outcomes contained in assistance agreement work plans. Under 40 CFR Part 31, EPA may require  
40 recipients to submit performance/progress reports as frequently as quarterly but no less frequently than

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<sup>15</sup> Office of Grants and Debarments, Orders, Grants Policy Issuances, and Directives, available at:  
<http://intranet.epa.gov/ogd/policy/policy.htm>

<sup>16</sup> Section 511(c) of the Clean Water Act and Susan E. Bromm, EPA Office of Federal Activities, June 12, 2012.  
Memorandum: Clean Water Indian Set-Aside Program and the National Environmental Policy Act (NEPA).

<sup>17</sup> EPA Order 5700.7, *Environmental Results under EPA Assistance Agreements*, effective date 1/1/2005, available  
at: [www.epa.gov/ogd/grants/award/5700.7.pdf](http://www.epa.gov/ogd/grants/award/5700.7.pdf).

1 annually. These regulations also require recipients to provide the EPA with an acceptable final  
2 performance report at the end of a project.

3  
4 The review of recipient performance reports is the responsibility of the EPA project officer. The project  
5 officer must review interim<sup>18</sup> and final<sup>19</sup> performance reports to determine whether they adequately  
6 address the achievement of agreed-upon outputs/outcomes, including providing a satisfactory  
7 explanation for insufficient progress or a failure to meet planned accomplishments (when compared  
8 with the most recently approved project schedule and completion dates for project milestones). This  
9 review must be documented in the official project file. If a report does not adequately address the  
10 achievement of outputs/outcomes, the project officer should seek further explanation from the  
11 recipient and require appropriate corrective action. OGD provides directives to project officers that  
12 outline roles and responsibilities<sup>20</sup> and regions should be familiar with these documents.

13  
14 Grant applications should be processed in a timely manner. They should be carefully reviewed and the  
15 grant awarded only when it is prudent to do so. Additionally, regions may impose reasonable  
16 requirements through grant conditions in those situations where it is considered necessary. A select list  
17 of topics project officers must review and ensure in the grant application includes, but is not limited to:

- 18
- 19 • The scope of work of the grant is clearly defined;
- 20 • The scope of work is in conformance with the project description;
- 21 • The project schedule and milestones are clearly described;
- 22 • The environmental or public health objectives are clearly stated;
- 23 • A narrative description of well-defined anticipated outputs, and to the maximum extent  
24 practicable, well-defined anticipated outcomes is provided;
- 25 • The applicant has demonstrated it has programmatic capability to successfully manage the  
26 project based on past performance or through the current grant application;
- 27 • Project objectives are consistent with the scope of work and project needs;
- 28 • Land availability and permitting requirements are addressed; and
- 29 • Costs are reasonable, necessary and allocable to the project.
- 30 • Timely use of funds (refer to Section VI. D. Unliquidated Obligations).

## 31 ***2. Interagency Agreement***

32 Section 518(c) of the CWA (Appendix A), provides EPA the authority to provide funding for the planning  
33 and construction of wastewater treatment plant facilities that serve tribes. In the case where an IA is  
34 used, this agreement will be signed between IHS and EPA, and funds are administered by IHS. The  
35 required standard terms and conditions for these IAs are provided in Appendix J. A PER<sup>21</sup> and/or Project  
36 Summary (PS) will be used as the basis for IAs with IHS and serves as the scope of work. After the IHS  
37 Area Office approves the PER and/or PS, the tribe and IHS enter into a Memorandum of Agreement  
38 (MOA), which is similar to a cooperative agreement as defined by the Federal Grant and Cooperative

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<sup>18</sup> For construction projects, on-site technical inspections and certified percentage of construction data to meet the interim reporting requirements, see 40 CFR 31.40(c).

<sup>19</sup> For construction projects, the final inspection report or other final performance report should include a comparison of the actual outcomes/outputs with those incorporated into the assistance agreement.

<sup>20</sup> Office of Grants and Debarments, Roles and Responsibilities of Project Officers, available at:

<http://intranet.epa.gov/OGD/policy/policy.htm>.

<sup>21</sup> IHS also refers to this document as an Engineering Project Report (EPR)

1 Agreement Act (FGCAA). Using the Integrated Grants Management System (IGMS), regions will submit  
2 an IA funding package (Decision Memorandum, Commitment Notice and Scope of Work) to IASSC.

3  
4 The IA standard terms and conditions (Appendix J) are to be used between regions and IHS Area offices.  
5 These terms and conditions may be updated periodically by IASSC West to incorporate changes to  
6 interagency agreement policies and procedures, add new statutory requirements, or in response to  
7 requests from OWM to incorporate additional programmatic requirements that have been mutually  
8 agreed upon between OWM and the IHS Headquarters. No changes shall be made to the standard  
9 terms and conditions by the regions or IHS Area offices.

10  
11 If the proposed project is solely to fund the preparation of a PER, then the IA is developed following IHS  
12 procedures for a planning or engineering only project that does not involve construction. A signed  
13 MOA between IHS and tribal recipient is not required as part of the initial funding package; however,  
14 they should be provided to IASSC West for inclusion in the official IA file once available.

15  
16 The Office of General Counsel (OGC) has opined that, “EPA should not be an additional party to these  
17 MOAs between IHS and the tribe.”<sup>22</sup> EPA should sign an agreement with IHS, and IHS should enter into a  
18 separate agreement with the tribe. Given that EPA does not enter into a direct agreement with a tribe,  
19 IHS should be involved with any formal communication between EPA and the tribe as it relates to the  
20 project.

21  
22 Under an IA, the tribe must meet the IHS’s requirements for the project (e.g., environmental review,  
23 historic preservation, archeology, etc.). The IA describes the scope of work for the project, milestones,  
24 target dates, project period, budget, and payment terms. The total project period, including extensions,  
25 may not exceed seven years without specific regulatory or statutory authorization, or a signed  
26 waiver.<sup>23,24</sup> As such, project funds must be liquidated (spent or drawn from the U.S. Treasury) within  
27 that seven-year period. After the IA is executed, the funds are transferred to the IHS Area Office and  
28 they are considered obligated for the FFY.

29  
30 The tribe generally has three options for designing and building its project under the IA:

- 31
- 32 • Funds are provided to IHS and IHS designs and builds the project according to IHS administrative  
33 and construction policies and procedures, including those for procurement, environmental  
34 review, audit procedures, and accounting principles.<sup>25</sup>
  - 35
  - 36 • Funds are provided to the tribe, and the tribe designs and builds the project through tribal  
37 and/or outside architectural/engineering/ construction contractors. IHS may work with the  
38 tribe to help select the firm(s), ensure all applicable EPA and/or IHS guidelines are followed,  
39 conduct plan and specification reviews, etc.

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<sup>22</sup> Lucille Liem, OGC, email dated March 26, 2009

<sup>23</sup> As per Interagency Agreement Policy Issuance (IPI-08-02), Guidance on Project Period Duration, and Interagency Agreement Policy Issuance (IPI-11-02), Clarification of Senior Resource Official Review Requirements for Time Extensions under Interagency Agreements.

<sup>24</sup> Class Waiver for the Clean Water Act Indian Set-Aside and the Safe Drinking Water Act Tribal Set-Aside Infrastructure Programs dated July 21, 2008 was approved for IAs and grants awarded prior to February 29, 2008.

<sup>25</sup> This is not an option for tribes that have assumed the responsibility to implement the IHS Sanitary Facilities Construction Program under the Indian Self-Determination Act (Public Law 93-638).

- 1
- 2
- The funds are provided to the tribe, and the tribe hires IHS to design and build the project according to IHS administrative and construction policies and procedures, including those for procurement, environmental review, audit procedures, and accounting principles.
- 3
- 4
- 5

6 In all situations, IHS will report project progress in the IHS PDS within STARS. In addition, if the design, management, and administration costs are more than 15% of the construction cost, the region should request written documentation explaining the expenditures to include in its project file. As discussed previously, EPA Regions have access to STARS to track progress.

7

8

9

10

11 If multiple projects are to be combined into a single IA, this should be done strategically based on project scale and schedule. Short-term, small-scale projects are better grouped together. Similarly, an IA with multiple projects should be limited to one FFY. Additional projects should not be added to an IA of a previous FFY unless the project is phased over several years and benefits the same tribe. One IA for each project is preferred and allows the IHS and EPA finance systems to more easily track project progress.

12

13

14

15

16

### 17 **C. Indian Self-Determination Act**

18 Some tribes may elect to have IHS administer and manage a project on their behalf. This requires an IA between EPA and IHS. Funds provided by EPA through an IA to IHS may only be used in agreements authorized by the Indian Sanitation Facilities Act, 42 U.S.C. 2004a (Public Law 86-121).<sup>26</sup> Tribes that have assumed the responsibility to implement the IHS Sanitary Facilities Construction Program under the Indian Self-Determination Act (Public Law 93-638) can only receive CWISA funds through a direct grant with EPA. This act allows tribes an increased level of self-governance and decision making and is one of the means by which tribes implement their sovereign powers.<sup>27</sup>

19

20

21

22

23

24

25

## 26 **VI. ONGOING PROJECT MANAGEMENT**

### 27 **A. Construction and Purchasing Requirements**

28 Construction projects funded through an IA or direct grant may need to comply with the provisions of the Davis Bacon Act or the Buy American Act. For projects managed through an IA with IHS, the requirements of IHS to comply with these laws, if any, need to be followed. Projects funded through a direct grant must follow the requirements of the grant as determined by OGD.

29

30

31

### 32 **B. Tribal Direct Implementation Nexus (TDI Nex)**

33 The TDI Nex tool unites existing data systems to assist in the oversight of CWISA funds and to describe CWISA progress. Information from IHS's Project Data System (PDS) and EPA's IGMS form the backbone of the TDI Nex. Once projects are started, regions are to track projects using the TDI Nex system (see Appendix F). Gathering information through TDI Nex allows OWM to respond to EPA management, Congress, tribes and other stakeholders that request information on the accomplishments achieved

34

35

36

37

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<sup>26</sup> Catalog of Federal Domestic Assistance, Indian Sanitation Facilities Act, 42 U.S.C. 2004a (Public Law 86-121) available at:

<https://www.cfda.gov/?s=program&mode=form&tab=step1&id=3d5a5f378f057d4abe70074085e02501>

<sup>27</sup> Bureau of Indian Affairs, Indian Self-Determination Act (Public Law 93-638) available at:

<http://www.bia.gov/cs/groups/mywcsp/documents/collection/idc017334.pdf>

1 through the program. Regions should update the entry for each project, following the award of funding,  
2 with the assigned IA number and IHS PDS Project Number. The TDI Next tool is designed to require  
3 regional input once, at the start of each project.

#### 4 **C. Unobligated Funds**

5 It is highly recommended that regions obligate funds the same year as the funds are appropriated from  
6 Congress. At a minimum, regions should obligate all their funds by the end of the next FFY from that in  
7 which they are allotted. Although CWISA funds are “no year” funds, if not obligated in a timely manner,  
8 they could be subject to rescission. Sometimes a region will have funds remaining at the end of a  
9 project that is completed under budget. In this case the region has some flexibility in how it utilizes the  
10 remaining funds, such as adding scope to the initial project, funding a separate project with the same  
11 tribe, funding a project with another tribe, or returning the funds to OWM for reallocation.  
12 Communication with IHS is encouraged to find the most appropriate use of the funds. Regardless if the  
13 project is funded through an IA or a grant, the agreement must be amended, with the addition of the  
14 new scope, to track the use of the funds. The use of unobligated funds associated with a direct grant  
15 project must follow the terms and conditions of the grant.

#### 16 **D. Unliquidated Obligations**

17 Interagency Agreement Policy Issuance (IPI) 11-01, *Managing Unliquidated Obligations and Ensuring*  
18 *Progress under EPA Interagency Agreements*, sets forth procedures for managing unliquidated  
19 obligations under IAs. IA agreements with IHS should specify a reasonable payment cycle to encourage  
20 regular expenditure of funds. The annual performance evaluation of grants must include a discussion of  
21 how effectively a recipient managed and utilized EPA grant funds. IASSC West staff will track this  
22 information and will request updates from the CWISA regional coordinators as needed. A parallel policy  
23 applies to direct grants, as per Amended Grants Policy Issuance (GPI) 11-01: *Managing Unliquidated*  
24 *Obligations and Ensuring Progress under EPA Assistance Agreements*.

25  
26 In accordance with IPI 08-02, *Guidance on Project Period Duration and the Use of New for Interagency*  
27 *Agreements*, the total project period, including extensions, cannot exceed seven years for IAs. It is the  
28 responsibility of the IA Project Officer identified by the region to regularly and routinely notify IHS when  
29 the end of this period is approaching to ensure the project is completed before the agreement end date.  
30 IHS is responsible for coordinating with the tribe, as appropriate. The appropriate Senior Resource  
31 Official, the OGD Director, or designee, may approve waivers to the seven-year limitation on an  
32 individual or class basis because of national security concerns, circumstances of unusual or compelling  
33 urgency, unique programmatic considerations, or because the waiver would be in the public interest.  
34 The seven year maximum project period also applies to direct grants, as per Grants Policy Issuance 08-  
35 02: *Guidance on Project Period Duration and the Use of New Awards to Fund Additional Work*.

#### 36 **E. Quality Assurance Project Plan**

37 The IAs with IHS specify that an umbrella Quality Assurance Project Plan (QAPP) applies to CWISA  
38 funded projects. The umbrella QAPP<sup>28</sup> describes applicable water sample collection and analysis  
39 activities conducted at the completion of sanitation facility construction to ensure proper project  
40 performance and operation. If the scope of the CWISA funded project includes a pilot wastewater

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<sup>28</sup> See “Water Sample Collection and Analysis QAPP for Tribal Water and Wastewater Infrastructure Projects” signed by EPA’s QA Manager, OWM, Office of Ground Water and Drinking Water, and IHS (March 2012).

1 treatment study or hydraulic network modeling, IHS is responsible for preparing an individual project  
2 specific QAPP in accordance with EPA’s Office of Environmental Information.

3 **F. Onsite Septic Systems**

4 Onsite decentralized septic systems are often the most common type of infrastructure funded by the  
5 CWISA Program. Roughly one quarter of the U.S. population uses onsite systems to treat their  
6 wastewater. Onsite systems are commonly designed for a 30 year life cycle and can achieve that lifespan  
7 if maintained properly.

8  
9 EPA has developed a variety of tools for the appropriate management of onsite systems to ensure their  
10 longevity. It is recommended that all CWISA funded onsite wastewater systems utilize tools, such as the  
11 Responsible Management Entities (RME) framework<sup>29</sup> and SepticSmart<sup>30</sup> homeowner outreach materials  
12 (available in both English and Spanish). Using these tools will help to protect public health and the  
13 environment, maximize federal investments, and ensure that onsite infrastructure meets its design life.

14 **G. Project Close-Out Procedures**

15 Once construction is completed, the tribe and/or IHS must coordinate the initial operations of the new  
16 facility. Following final inspection, a report is prepared that summarizes the project. For IA funded  
17 projects the final report is prepared by IHS.<sup>31</sup> For projects funded through a direct grant, the final  
18 reporting requirements are contained in the terms and conditions of the grant. The report should be  
19 signed and succinctly cover the project’s history and shall be provided no later than 365 days after  
20 construction phase completion to the respective EPA regional program coordinator.<sup>32</sup>

21  
22 **VII. OWM AND REGIONAL PROGRAM RESPONSIBILITIES**

23 The responsibilities of OWM staff and their regional counterparts for implementing the CWISA Program  
24 are described below.

25 **A. OWM Responsibilities**

26 Twice a year, OWM aims to hold a teleconference with the regional programs to discuss funding  
27 allocation and project selection. The first meeting will be scheduled approximately 90 days following the  
28 annual announcement of the funding allocations to the regions. The second meeting will be scheduled  
29 following the close of the FFY to discuss funded project milestones and implementation challenges  
30 encountered with the tribes and/or IHS. In addition, OWM program staff shall:

- 31  
32 1. Designate a CWISA National Program Coordinator with the responsibility for regional  
33 coordination;

---

<sup>29</sup> Described by the Water Environment Research Foundation at :  
[http://www.werf.org/i/c/KnowledgeAreas/DecentralizedSystems/RMEsite/RMEs\\_2.aspx](http://www.werf.org/i/c/KnowledgeAreas/DecentralizedSystems/RMEsite/RMEs_2.aspx), and in EPA’s Voluntary National Guidelines for Management of Onsite and Clustered (Decentralized) Wastewater Treatment Systems, 2003 online at <http://water.epa.gov/infrastructure/septic/manuals.cfm>.

<sup>30</sup> More information at: [www.epa.gov/septicmart/](http://www.epa.gov/septicmart/).

<sup>31</sup> IHS requirements for final reports are described on page 11, Chapter 8 of the 2003 Criteria for the SFC Program at: [www.ihs.gov/dsfc/documents/Criteria\\_March\\_2003.pdf](http://www.ihs.gov/dsfc/documents/Criteria_March_2003.pdf), however as of spring 2013 IHS was considering modifying final report requirements.

<sup>32</sup> For IAs, this requirement is in the EPA/IHS IA terms and conditions template.

- 1        2. Develop an annual allocation memo identifying the funding amount for that FFY and providing  
2        IHS Area priority lists;
- 3        3. Monitor and report on the overall progress made by the CWISA Program in meeting national  
4        goals and measures;
- 5        4. Schedule and lead meetings with regions to track projects and identify and resolve problems  
6        encountered by regions during implementation;
- 7        5. Identify and coordinate responses to CWISA Program implementation issues with IHS  
8        Headquarters;
- 9        6. Designate a Project Officer to manage the suite of projects funded by national agreements (such  
10       as those funded by the American Recovery and Reinvestment Act of 2009);
- 11       7. Maintain the website (currently [www.epa.gov/cwisa](http://www.epa.gov/cwisa)); and
- 12       8. As appropriate, elevate issues to IASSC, Cincinnati Finance Center, OGC, OGD, upper  
13       management within OWM, etc.

## 14        **B.        Regional Responsibilities**

15       Once OWM allots the annual CWISA funds to the regions, the EPA regions are responsible for  
16       management and oversight of the direct grants and IAs associated with their projects through a  
17       designated project officer and other necessary staff. As appropriate, regions should inform tribes and  
18       other potentially interested parties about their identified projects each year. They should also inform  
19       tribes and other parties about the estimated amount of CWISA funds to be awarded for each project. In  
20       some instances, such as for the tribes in Alaska, it may also be appropriate to inform the states of the  
21       region's plans.

22  
23       Regions also should work closely with the local IHS Area Office. It is imperative that the regions consult  
24       and coordinate with the local IHS Area Office during project selection.

25  
26       EPA regional program staff will participate in routine meetings with OWM program staff as discussed in  
27       the OWM Responsibilities section above. In addition, regional staff have the responsibility to:

- 28  
29       1. Designate a CWISA Regional Program Coordinator to participate in routine meetings, conference  
30       calls, ad-hoc communications, etc.;
- 31       2. Present a summary of annual regional project selection decisions;
- 32       3. Document awarded project status oversight activities, including CWISA funds transferred to the  
33       DWIG-TSA;
- 34       4. Coordinate and consult with the IHS Area Offices on the development of the project documents  
35       (e.g., IAs and project summaries);
- 36       5. Perform oversight of the project(s) to ensure that reported project milestones are meeting the  
37       project schedule and monitor project progress reports to ensure the level of expended funds is  
38       reasonable given the amount of work completed. Regular communication with IHS and/or  
39       tribes is needed to ensure projects remain on schedule and any problems are identified and  
40       addressed in a timely manner;
- 41       6. Identify the expected impact of CWISA projects on national goals and measures;
- 42       7. Routinely submit data into the TDI Nex system;
- 43       8. Act as the regional liaison to OWM for communicating progress of each project and  
44       implementation problems;

- 1 9. Identify and report issues associated with EPA Region and IHS Area Office coordination or EPA  
2 Region and grant recipient coordination that may affect the award of CWISA funds or  
3 completion of CWISA funded projects;
- 4 10. Support OWM in the active management of nationally funded projects (such as American  
5 Recovery and Reinvestment Act of 2009 suite) until a final report is issued for each project;
- 6 11. Timely notification to OWM of staff changes; and
- 7 12. As deemed necessary, participate in on-site project oversight activities (e.g., design meetings,  
8 final plans and specifications reviews, and final project inspections) when notified and invited by  
9 IHS.

### 10 **C. CWISA Contacts**

11 The CWISA Program includes staff from OWM and all EPA Regions except Region 3. A list of CWISA  
12 contacts is provided online at: [www.epa.gov/cwisa](http://www.epa.gov/cwisa).

13

# **APPENDICES**

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1 **SEC. 518. [33 U.S.C. 1377] INDIAN TRIBES**

2  
3 (a) POLICY—Nothing in this section shall be construed to affect the application of section 1251(g) of this title, and  
4 all of the provisions of this section shall be carried out in accordance with the provisions of such section 1251(g) of  
5 this title. Indian tribes shall be treated as States for purposes of such section 1251(g) of this title.  
6

7 (b) ASSESSMENT OF SEWAGE TREATMENT NEEDS; REPORT— The Administrator, in cooperation with the Director of  
8 the Indian Health Service, shall assess the need for sewage treatment works to serve Indian tribes, the degree to  
9 which such needs will be met through funds allotted to States under section 1285 of this title and priority lists under  
10 section 1296 of this title, and any obstacles which prevent such needs from being met. Not later than one year after  
11 February 4, 1987, the Administrator shall submit a report to Congress on the assessment under this subsection, along  
12 with recommendations specifying (1) how the Administrator intends to provide assistance to Indian tribes to develop  
13 waste treatment management plans and to construct treatment works under this chapter, and (2) methods by which  
14 the participation in and administration of programs under this chapter by Indian tribes can be maximized.  
15

16 (c) RESERVATION OF FUNDS—The Administrator shall reserve each fiscal year beginning after September 30, 1986,  
17 before allotments to the States under section 1285(e) of this title, one-half of one percent of the sums appropriated  
18 under section 1287 of this title. Sums reserved under this subsection shall be available only for grants for the  
19 development of waste treatment management plans and for the construction of sewage treatment works to serve  
20 Indian tribes, as defined in subsection (h) of this section and former Indian reservations in Oklahoma (as determined  
21 by the Secretary of the Interior) and Alaska Native Villages as defined in Public Law 92-203 [43 U.S.C. § 1601 et  
22 seq.].  
23

24 (d) COOPERATIVE AGREEMENTS—In order to ensure the consistent implementation of the requirements of this  
25 chapter, an Indian tribe and the State or States in which the lands of such tribe are located may enter into a  
26 cooperative agreement, subject to the review and approval of the Administrator, to jointly plan and administer the  
27 requirements of this chapter.  
28

29 (e) TREATMENT AS STATES—The Administrator is authorized to treat an Indian tribe as a State for purposes of  
30 subchapter II of this chapter and sections 1254, 1256, 1313, 1315, 1318, 1319, 1324, 1329, 1341, 1342, 1344, and  
31 1346 of this title to the degree necessary to carry out the objectives of this section, but only if—  
32

- 33 (1) the Indian tribe has a governing body carrying out substantial governmental duties and powers;  
34 (2) the functions to be exercised by the Indian tribe pertain to the management and protection of water  
35 resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member  
36 of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within  
37 the borders of an Indian reservation; and  
38 (3) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out  
39 the functions to be exercised in a manner consistent with the terms and purposes of this chapter and of all  
40 applicable regulations.  
41

42 Such treatment as a State may include the direct provision of funds reserved under subsection (c) of this section to  
43 the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by  
44 the Administrator in cooperation with the Director of the Indian Health Service. The Administrator, in cooperation  
45 with the Director of the Indian Health Service, is authorized to make grants under subchapter II of this chapter in an  
46 amount not to exceed 100 percent of the cost of a project. Not later than 18 months after February 4, 1987, the  
47 Administrator shall, in consultation with Indian tribes, promulgate final regulations which specify how Indian tribes  
48 shall be treated as States for purposes of this chapter. The Administrator shall, in promulgating such regulations,  
49 consult affected States sharing common water bodies and provide a mechanism for the resolution of any  
50 unreasonable consequences that may arise as a result of differing water quality standards that may be set by States  
51 and Indian tribes located on common bodies of water. Such mechanism shall provide for explicit consideration of  
52 relevant factors including, but not limited to, the effects of differing water quality permit requirements on upstream  
53 and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to  
54 such standards. Such mechanism should provide for the avoidance of such unreasonable consequences in a manner  
55 consistent with the objective of this chapter.

1  
2 (f) GRANTS FOR NONPOINT SOURCE PROGRAMS—The Administrator shall make grants to an Indian tribe under  
3 section 1329 of this title as though such tribe was a State. Not more than one-third of one percent of the amount  
4 appropriated for any fiscal year under section 1329 of this title may be used to make grants under this subsection. In  
5 addition to the requirements of section 1329 of this title, an Indian tribe shall be required to meet the requirements of  
6 paragraphs (1), (2), and (3) of subsection (d)† of this section in order to receive such a grant.  
7

8 (g) ALASKA NATIVE ORGANIZATIONS—No provision of this chapter shall be construed to—

9 (1) grant, enlarge, or diminish, or in any way affect the scope of the governmental authority, if any, of any  
10 Alaska Native organization, including any federally-recognized organized pursuant to the Act of June 18,  
11 1934 (48 Stat. 987), over lands or persons in Alaska;

12 (2) create or validate any assertion by such organization or any form of governmental authority over lands  
13 or persons in Alaska; or

14 (3) in any way affect any assertion that Indian country, as defined in section 1151 of Title 18, exists or does  
15 not exist in Alaska.  
16

17 (h) DEFINITIONS—For purposes of this section, the term—

18 (1) “Federal Indian reservation” means all land within the limits of any Indian reservation under the  
19 jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including  
20 rights-of-way running through the reservation; and

21 (2) “Indian tribe” means any Indian tribe, band, group, or community recognized by the Secretary of the  
22 Interior and exercising governmental authority over a Federal Indian reservation.  
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**APPENDIX B**  
**Delegation Authority of the Clean Water Indian Set-Aside Program**

**2-80. Grants for Indian Set-Aside Wastewater Treatment Projects**

1200 TN 226  
6/11/90

- 1. **AUTHORITY.** To approve grants for the development of waste treatment management plans and for the construction of sewage treatment works to serve federally recognized Indian Tribes, Tribes on former reservations in Okalahoma, and Alaska Native Villages as authorized by Section 518(c) of the Clean Water Act (CWA). Such grants may be made to a State or other organization if authorized by the Tribe of the Village.
- 2. **TO WHOM DELEGATED.** Regional Administrators.
- 3. **LIMITATIONS.** The Regional Administrator may redelegate this authority for only those projects above the funding line on the Indian Set-Aside National Project Priority List.
- 4. **ADDITIONAL REFERENCES.** 40 CFR Parts 31-32; Guidelines and Requirements for Applying For grants from the Indian Set-Aside Program, April 1989. Authority to execute (sign) these financial assistance agreements is delegated to the Regional Administrators under Delegation 1-14, Assistance Agreements.

1  
2 **2-105 Transfer Funds Between State Revolving Fund Tribal Set-Aside Programs**  
3 **(1200 TN 618)**  
4

5 **1. AUTHORITY.** Pursuant to Public Law 112-74, to approve the transfer of funds  
6 between the accounts provided for tribal set-asides appropriated through Clean Water  
7 State Revolving Funds and Drinking Water State Revolving Funds.  
8

9 **2. TO WHOM DELEGATED.** Regional Administrators.  
10

11 **3. LIMITATIONS.** In a fiscal year, a regional administrator may:  
12

13 a. Transfer a dollar value of up to 33 percent of the funds provided for the region's  
14 Drinking Water Indian Set-Aside account to the region's Clean Water Indian Set-  
15 Aside account; and  
16

17 b. Transfer a dollar amount up to the dollar amount identified in paragraph a of  
18 funds provided for the region's Clean Water Indian Set-Aside account to  
19 theregion's Drinking Water Indian Set-Aside account.  
20

21 c. Starting in FY13, for the first transfer within each region, the regional  
22 administrator must obtain the concurrence of the Office of Water's assistant  
23 administrator or designee and thereafter must consult with the Office of Water's  
24 assistant administrator or designee exercising this authority.  
25

26 **4. REDELEGATION AUTHORITY**  
27

28 a. This authority may be redelegated to the division director level or equivalent in  
29 the regions and no further.  
30

31 b. This authority may be exercised by any person in the chain of command to the  
32 person to whom it has been re-delegated. Any redelegation of this authority does  
33 not divest the official making the redelegation from the power to exercise this  
34 authority.  
35

36 **5. ADDITIONAL REFERENCES.**  
37

38 a. Section 518(c) of the Clean Water Act.  
39

40 b. Section 1452(i) of the Safe Drinking Water Act.  
41

42 c. Additional guidance as may be issued by the Office of Wastewater Management or the  
43 Office of Groundwater and Drinking Water.



1 **Appendix C**  
2 **Federal Cross-Cutting Authorities**  
3

4 The following is a list of cross-cutting authorities for the CWISA Program. It is not all inclusive and Regional  
5 Coordinators should confirm with current rules and regulations to ensure that all federal policies are  
6 followed. A more detailed description of the Federal laws, Executive Orders, OMB Circulars and their  
7 implementing regulations is available through the OGD Grants Intranet website at  
8 <http://intranet.epa.gov/ogd/> or through the Regional Grants Management Office.  
9

10 **Environmental Authorities**

- 11 • Archeological and Historic Preservation Act of 1974, Pub. L. 86-523, as amended
- 12 • Clean Air Act, Pub. L. 84-159, as amended
- 13 • Coastal Barrier Resources Act, Pub. L. 97-348
- 14 • Coastal Zone Management Act, Pub. L. 92-583, as amended
- 15 • Endangered Species Act, Pub. L. 93-205, as amended
- 16 • Environmental Justice, Executive Order 12898
- 17 • Floodplain Management, Executive Order 11988 as amended by Executive Order 12148
- 18 • Protection of Wetlands, Executive Order 11990
- 19 • Farmland Protection Policy Act, Pub. L. 97-98
- 20 • Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended
- 21 • National Historic Preservation Act of 1966, PL 89-665, as amended
- 22 • Safe Drinking Water Act, Pub. L. 93-523, as amended
- 23 • Wild and Scenic Rivers Act, Pub. L. 90-542, as amended

24  
25 **Economic and Miscellaneous Authorities**

- 26 • Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended
- 27 • Executive Order 12372
- 28 • Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean
- 29 • Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal
- 30 • Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans
- 31 • Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended
- 32 • Debarment and Suspension, Executive Order 12549
- 33 • Davis-Bacon Act, Pub. L. 107-217, as amended

34  
35 **Social Policy Authorities**

- 36 • Age Discrimination Act of 1975, Pub. L. 94-135
- 37 • Title VI of the Civil Rights Act of 1964, Pub. L. 88-3524
- 38 • Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the
- 39 • Clean Water Act)
- 40 • Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and
- 41 • 11250)
- 42 • The Drug-Free Workplace Act of 1988, Pub. L. 100-690 (applies only to the capitalization grant
- 43 • recipient)
- 44 • Equal Employment Opportunity, Executive Order 11246
- 45 • Women's and Minority Business Enterprise, Executive Orders 11625, 12138 and 12432
- 46 • Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub.
- 47 • L. 100-590
- 48 • Anti-Lobbying Provisions (40 CFR part 30) [applies only to capitalization grant recipients].

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*Appendix D. Guidelines on the Inter-  
Program Transfer Authority*

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**Attachment 1**  
**Guidelines for Implementation of Fund Transfer Authority**  
**Between the Drinking Water Infrastructure Grant – Tribal Set Aside and the**  
**Clean Water Indian Set – Aside Programs**  
**May 2013**

**I. Purpose**

This document provides guidance to EPA Regions when implementing the option to transfer funds between the Drinking Water Infrastructure Grant – Tribal Set Aside (DWIG-TSA) and Clean Water Indian Set Aside (CWISA) programs.

**II. Authorization**

State Revolving Fund (SRF) programs currently have permanent authority to transfer funds between the Clean Water SRF and the Drinking Water SRF. Authority to transfer funds between the DWIG-TSA and CWISA programs was provided through EPA's FY12 appropriations, stating:

*Provided further, That for fiscal year 2012 and hereafter, the Administrator may transfer funds provided for tribal set-asides through funds appropriated for the Clean Water State Revolving Funds and for the Drinking Water State Revolving Funds between those accounts in such manner as the Administrator deems appropriate, but not to exceed the transfer limits given to States under section 302(a) of Public Law 104-182.*

The transfer limit identified in section 302(a) is 33 percent of the Drinking Water SRF. For example, had we implemented the transfer provision in FY12, 33 percent of the DWIG-TSA allotment (of \$18,358,000) would have been \$6,058,140. The process for tribal transfers will begin in FY13; no transfers may be made with FY12 funds. The project eligibility portion of the grant guidelines specific to the program that receives funds from a transfer will apply to the transferred funds. For example, if funds are transferred from the CWISA to the DWIG-TSA, the funds will follow the project eligibility portion of the grant guidelines that apply to the DWIG-TSA.

**III. Permanent Delegation of Authority**

A permanent delegation of authority is in place that delegates the authority to transfer funds between the CWISA and the DWIG-TSA (#2-105). The April 4, 2013 authority memo is attached.

**IV. Transfer Process**

The following describes the steps to implement a transfer of funds between the two programs.

1. Regional Allotment Calculation: The Office of Ground Water and Drinking Water (OGWDW) and Office of Wastewater Management (OWM) calculate the allotments and indicate the maximum amount of funding available for transfer within each EPA Region.
2. Notification of Transfer: Regions will utilize their existing processes to identify water and wastewater infrastructure projects and notify Headquarters of their interest in exercising the transfer option.
3. Transfer Justification: Regions electing to transfer funds will submit a short narrative transfer justification to HQ that covers key points as described in this guideline supported by a Regional Project List (RPL). For the purposes of these guidelines, the RPL for wastewater projects would consist of information from the IHS Sanitation Deficiency System (SDS) and the RPL for drinking

1 water projects would consist of SDS information in addition to information identified through  
2 regional project solicitations. The proposed projects to be funded through a transfer must be on the  
3 IHS SDS list. Section V of this guideline includes a further description of the transfer justification and  
4 the data elements required in the RPL.

- 5
- 6 4. Transfer Approval Review Criteria: The approval of the fund transfer will be based on a  
7 consideration of several factors linked to Agency measures and priorities along with consistency with  
8 Agency guidelines for implementing the programs. The following information should be provided for  
9 consideration during the review process:
- 10
- 11 a. *Number of Homes Provided Access to Safe Drinking Water or Basic Sanitation*: The number of  
12 homes the project provides access to safe drinking water or basic sanitation is based on the Indian  
13 Health Service deficiency level data.
- 14
- 15 b. *Improving Compliance with Safe Drinking Water Act Regulations* (if applicable).
- 16
- 17 c. *Project Readiness*: Indication that the following types of documents are complete: preliminary  
18 engineering report, planning, design, environmental reviews and archeology.
- 19
- 20 d. *IHS Sanitation Deficiency Survey Project Priority Number*.
- 21
- 22 5. Transfer Justification Review/Approval: Starting in FY2013, for the first transfer within each region  
23 the regional administrator must obtain concurrence of the Office of Water's assistant administrator or  
24 designee. Should an impasse occur the first time that a transfer is requested, the decision to approve  
25 or disapprove will be resolved by the Assistant Administrator of Water.

26

27 For transfers subsequent to the first transfer, the Regions are to consult with the Office of Water's  
28 assistant administrator through notification of OGWDW and OWM of the intent to transfer and  
29 provide the Transfer Justification (Item 3) and the information described in 4a to 4d.

- 30
- 31 6. Funds Reprogramming: Upon approval of the transfer request, the approved amount of funds will be  
32 reprogrammed. The reprogramming will occur at Headquarters before funds are made available to  
33 the regions.

## 34

### 35 **V. Transfer Justification**

36

37 In order for OGWDW and OWM to evaluate the reasons for fund transfer, Regions shall provide a  
38 narrative justification for the proposed transfer. The justification statement should highlight the public  
39 health threat posed by the current deficiencies and net positive public health benefits of funding the  
40 project proposed for the transfer. The narrative statement should answer the question: Why are the  
41 projects proposed to receive transfer funds a priority for EPA? The narrative should also describe how  
42 the proposed infrastructure project will address the current deficiencies along with measures or metrics  
43 that clarify why this project is a priority over others. The transfer statement should be supported by the  
44 project data provided in the SDS listing for the project along with the RPL. If the project is not in the top  
45 10% of the IHS area SDS, the narrative should also explain why the project does not rank highly on the  
46 IHS Area SDS.

47

48 The RPL should include the projects planned for funding that utilize all regional funds (both Drinking  
49 Water and Clean Water.) If possible, the RPL should also include the highest ranked project(s) not  
50 funded as a result of the funds transfer. The data to be included in the RPL for each project are listed in  
51 Table 1.

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**Table 1: Data Fields for the Regional Project List (RPL)**

<ul style="list-style-type: none"> <li>• Project Name*</li> <li>• Project Purpose*</li> <li>• Tribe Name*</li> <li>• Indian Health Service (IHS) Area*</li> <li>• IHS Sanitation Deficiency System Data (Project Number, Project Priority, Project Initial Deficiency Level and Project Final Deficiency Level)</li> <li>• Funding from Drinking Water Infrastructure Grant-Tribal Set- Aside Program</li> <li>• Funding from Clean Water Act Indian Set-Aside Program</li> </ul>	<ul style="list-style-type: none"> <li>• Total Project Cost*</li> <li>• Public Water System Inventory Number* (Drinking Water project)</li> <li>• National Pollution Discharge Elimination System Permit (Clean Water Project)</li> <li>• Number of Tribal Homes Served*</li> <li>• Current Violation Type(s) to be address by project (as applicable)*</li> <li>• Anticipated Construction Start Date*</li> <li>• EPA Program Measures Addressed*</li> </ul>
---	---

4 \* Data required for all funded drinking water projects per memo EPA National Tribal Drinking Water  
5 Program Oversight and Accountability (March 23, 2012). Data recommended for all funded wastewater  
6 projects.  
7

8 **VI. Annual Timeline**

9  
10 The following table describes the approximate timing to implement a transfer of funds between the two  
11 programs. Approval by OGWDW and OWM of the first transfer within each Region is required. For  
12 subsequent transfers, Regions will still need to provide justification information to notify OGWDW and  
13 OWM of the intent to transfer. OGWDW and OWM reserve the right to object to a transfer proposal if it  
14 is contrary to the program guidelines or the goals of the program.  
15

16 **Table 2: Tribal Water Infrastructure Funding Transfer Process Timeline**

Milestone	Schedule	Responsible Entities
Regional Allotment Calculation	Budget Operating Plan + 30 days	OGWDW and OWM
Notification of Transfer	Budget Operating Plan + 60 days	EPA Regions
Transfer Justification	Budget Operating Plan + 90 days	EPA Regions
Transfer Approval	Transfer Justification /Consultation + 30 days	Regional Administrator or OGWDW/OWM
Funds Reprogramming	Transfer Approval + 30 days	OWM or OGWDW

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*Appendix E. Preliminary Engineering  
Report Template*

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January 16, 2013

INTERAGENCY MEMORANDUM

Attached is a document explaining recommended best practice for the development of Preliminary Engineering Reports in support of funding applications for development of drinking water, wastewater, stormwater, and solid waste systems.

The best practice document was developed cooperatively by:

- [US Department of Agriculture, Rural Development, Rural Utilities Service, Water and Environmental Programs](#);
- [US Environmental Protection Agency \(EPA\), Office of Water, Office of Ground Water and Drinking Water and Office of Wastewater Management](#);
- [US Department of Housing and Urban Development \(HUD\), Office of Community Planning and Development](#);
- [US Department of Health and Human Services, Indian Health Service \(IHS\)](#);
- [Small Communities Water Infrastructure Exchange](#);

Extensive input from participating state administering agencies was also very important to the development of this document.

Federal agencies that cooperatively developed this document strongly encourage its use by funding agencies as part of the application process or project development. State administered programs are encouraged to adopt this document but are not required to do so, as it is up to a state administering agency's discretion to adopt it, based on the needs of the state administering agency.

A Preliminary Engineering Report (Report) is a planning document required by many state and federal funding agencies as part of the process of obtaining financial assistance for development of drinking water, wastewater, solid waste, and stormwater facilities. The attached Report outline details the requirements that funding agencies have adopted when a Report is required.

In general the Report should include a description of existing facilities and a description of the issues being addressed by the proposed project. It should identify alternatives, present a life cycle cost analysis of technically feasible alternatives and propose a specific course of action. The Report should also include a detailed current cost estimate of the recommended alternative. The attached outline describes these and other sections to be included in the Report.

Projects utilizing direct federal funding also require an environmental review in accordance with the National Environmental Policy Act (NEPA). The Report should indicate that environmental issues were considered as part of the engineering planning and include environmental information pertinent to engineering planning.

1 For state administered funding programs, a determination of whether the outline applies to a  
2 given program or project is made by the state administering agency. When a program or agency  
3 adopts this outline, it may adopt a portion or the entire outline as applicable to the program or  
4 project in question at the discretion of the agency. Some state and federal funding agencies will  
5 not require the Report for every project or may waive portions of the Report that do not apply to  
6 their application process, however a Report thoroughly addressing all of the contents of this  
7 outline will meet the requirements of most agencies that have adopted this outline.

8  
9 The detailed outline provides information on what to include in a Report. The level of detail  
10 required may also vary according to the complexity of the specific project. Reports should  
11 conform substantially to this detailed outline and otherwise be prepared and presented in a  
12 professional manner. Many funding agencies require that the document be developed by a  
13 Professional Engineer registered in the state or other jurisdiction where the project is to be  
14 constructed unless exempt from this requirement. Please check with applicable funding agencies  
15 to determine if the agencies require supplementary information beyond the scope of this outline.

16  
17 Any preliminary design information must be written in accordance with the regulatory  
18 requirements of the state or territory where the project will be built.

19  
20 Information provided in the Report may be used to process requests for funding. Completeness  
21 and accuracy are therefore essential for timely processing of an application. Please contact the  
22 appropriate state or federal funding agencies with any questions about development of the Report  
23 and applications for funding as early in the process as practicable.

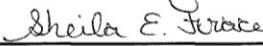
24  
25 Questions about this document should be referred to the applicable state administering agency,  
26 regional office of the applicable federal agency, or to the following federal contacts:

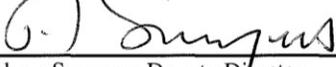
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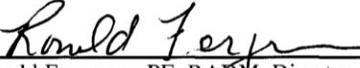
Agency	Contact	Email Address	Phone
USDA/RUS	Benjamin Shuman, PE	<a href="mailto:ben.shuman@wdc.usda.gov">ben.shuman@wdc.usda.gov</a>	202-720-1784
EPA/DWSRF	Kirsten Anderer, PE	<a href="mailto:anderer.kirsten@epa.gov">anderer.kirsten@epa.gov</a>	202-564-3134
EPA/CWSRF	Matt King	<a href="mailto:king.matt@epa.gov">king.matt@epa.gov</a>	202-564-2871
HUD	Stephen Rhodside	<a href="mailto:stephen.m.rhodside@hud.gov">stephen.m.rhodside@hud.gov</a>	202-708-1322
IHS	Dana Baer, PE	<a href="mailto:dana.baer@ihs.gov">dana.baer@ihs.gov</a>	301-443-1345

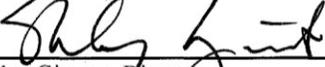
Sincerely,

 1/16/13  
 \_\_\_\_\_  
 Jacqueline M. Ponti-Lazaruk, Assistant Administrator  
 USEPA, Rural Development, Rural Utilities Service, Water and Environmental Programs

 01/16/13  
 \_\_\_\_\_  
 Sheila Frace, Acting Deputy Director  
 US EPA, Office of Water, Office of Wastewater Management

 1/16/13  
 \_\_\_\_\_  
 Andrew Sawyers, Deputy Director  
 US EPA, Director, Office of Water, Office of Ground Water and Drinking Water

 1/16/13  
 \_\_\_\_\_  
 Ronald Ferguson, PE, RADM, Director  
 Division of Sanitation Facilities Construction, Indian Health Service

 1-16-13  
 \_\_\_\_\_  
 Stanley Gimont, Director  
 Office of Block Grant Assistance, US Department of Housing and Urban Development

Attachment

1

## WORKING GROUP CONTRIBUTORS

Federal Agency Partners	
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EPA, Office of Water, Office of Wastewater Management	Matt King
EPA, Office of Water, Office of Wastewater Management	Joyce Hudson
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HUD, Office of Community Planning and Development	Eva Fontheim
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USDA, Rural Development, Florida State Office	Michael Langston
USDA, Rural Development, Florida State Office	Steve Morris, PE

2

3

State Agency and Interagency Partners	
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Border Environment Cooperation Commission	Joel Mora, PE
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Colorado Department of Public Health & Environment	Michael Beck
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Idaho, Department of Environmental Quality	Tim Wendland
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Rhode Island Department of Health	Gary Chobanian, PE
Rhode Island Department of Health	Geoffrey Marchant

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## ABBREVIATIONS

- NEPA – National Environmental Policy Act
- NPV – Net Present Value
- O&M – Operations and Maintenance
- OMB – Office of Management and Budget
- Report – Preliminary Engineering Report
- SPPW – Single Payment Present Worth
- USPW – Uniform Series Present Worth

1  
2  
3 GENERAL OUTLINE OF A PRELIMINARY ENGINEERING REPORT  
4

5 1) PROJECT PLANNING

- 6 a) Location  
7 b) Environmental Resources Present  
8 c) Population Trends  
9 d) Community Engagement

10  
11 2) EXISTING FACILITIES

- 12 a) Location Map  
13 b) History  
14 c) Condition of Existing Facilities  
15 d) Financial Status of any Existing Facilities  
16 e) Water/Energy/Waste Audits  
17

18 3) NEED FOR PROJECT

- 19 a) Health, Sanitation, and Security  
20 b) Aging Infrastructure  
21 c) Reasonable Growth  
22

23 4) ALTERNATIVES CONSIDERED

- 24 a) Description  
25 b) Design Criteria  
26 c) Map  
27 d) Environmental Impacts  
28 e) Land Requirements  
29 f) Potential Construction Problems  
30 g) Sustainability Considerations  
31 i) Water and Energy Efficiency  
32 ii) Green Infrastructure  
33 iii) Other  
34 h) Cost Estimates  
35

36 5) SELECTION OF AN ALTERNATIVE

- 37 a) Life Cycle Cost Analysis  
38 b) Non-Monetary Factors  
39

40 6) PROPOSED PROJECT (RECOMMENDED ALTERNATIVE)

- 41 a) Preliminary Project Design  
42 b) Project Schedule  
43 c) Permit Requirements  
44 d) Sustainability Considerations  
45 i) Water and Energy Efficiency  
46 ii) Green Infrastructure

- 1           iii) Other
- 2       e) Total Project Cost Estimate (Engineer's Opinion of Probable Cost)
- 3       f) Annual Operating Budget
- 4           i) Income
- 5           ii) Annual O&M Costs
- 6           iii) Debt Repayments
- 7           iv) Reserves
- 8
- 9   7) CONCLUSIONS AND RECOMMENDATIONS
- 10
- 11

1  
2 DETAILED OUTLINE OF A PRELIMINARY ENGINEERING REPORT  
3

4 1) PROJECT PLANNING  
5

6 Describe the area under consideration. Service may be provided by a combination of  
7 central, cluster, and/or centrally managed individual facilities. The description should  
8 include information on the following:  
9

- 10 a) Location. Provide scale maps and photographs of the project planning area and  
11 any existing service areas. Include legal and natural boundaries and a  
12 topographical map of the service area.  
13  
14 b) Environmental Resources Present. Provide maps, photographs, and/or a narrative  
15 description of environmental resources present in the project planning area that  
16 affect design of the project. Environmental review information that has already  
17 been developed to meet requirements of NEPA or a state equivalent review  
18 process can be used here.  
19  
20 c) Population Trends. Provide U.S. Census or other population data (including  
21 references) for the service area for at least the past two decades if available.  
22 Population projections for the project planning area and concentrated growth  
23 areas should be provided for the project design period. Base projections on  
24 historical records with justification from recognized sources.  
25  
26 d) Community Engagement: Describe the utility's approach used (or proposed for  
27 use) to engage the community in the project planning process. The project  
28 planning process should help the community develop an understanding of the  
29 need for the project, the utility operational service levels required, funding and  
30 revenue strategies to meet these requirements, along with other considerations.  
31

32 2) EXISTING FACILITIES  
33

34 Describe each part (e.g. processing unit) of the existing facility and include the following  
35 information:  
36

- 37 a) Location Map. Provide a map and a schematic process layout of all existing  
38 facilities. Identify facilities that are no longer in use or abandoned. Include  
39 photographs of existing facilities.  
40  
41 b) History. Indicate when major system components were constructed, renovated,  
42 expanded, or removed from service. Discuss any component failures and the  
43 cause for the failure. Provide a history of any applicable violations of regulatory  
44 requirements.  
45  
46 c) Condition of Existing Facilities. Describe present condition; suitability for  
47 continued use; adequacy of current facilities; and their conveyance, treatment,  
48 storage, and disposal capabilities. Describe the existing capacity of each  
49 component. Describe and reference compliance with applicable federal, state, and  
50 local laws. Include a brief analysis of overall current energy consumption.  
51 Reference an asset management plan if applicable.  
52

- 1 d) Financial Status of any Existing Facilities. (Note: Some agencies require the  
2 owner to submit the most recent audit or financial statement as part of the  
3 application package.) Provide information regarding current rate schedules,  
4 annual O&M cost (with a breakout of current energy costs), other capital  
5 improvement programs, and tabulation of users by monthly usage categories for  
6 the most recent typical fiscal year. Give status of existing debts and required  
7 reserve accounts.  
8
- 9 e) Water/Energy/Waste Audits. If applicable to the project, discuss any water,  
10 energy, and/or waste audits which have been conducted and the main outcomes.  
11

12 3) NEED FOR PROJECT

13 Describe the needs in the following order of priority:

- 14
- 15
- 16 a) Health, Sanitation, and Security. Describe concerns and include relevant  
17 regulations and correspondence from/to federal and state regulatory agencies.  
18 Include copies of such correspondence as an attachment to the Report.  
19
- 20 b) Aging Infrastructure. Describe the concerns and indicate those with the greatest  
21 impact. Describe water loss, inflow and infiltration, treatment or storage needs,  
22 management adequacy, inefficient designs, and other problems. Describe any  
23 safety concerns.  
24
- 25 c) Reasonable Growth. Describe the reasonable growth capacity that is necessary to  
26 meet needs during the planning period. Facilities proposed to be constructed to  
27 meet future growth needs should generally be supported by additional revenues.  
28 Consideration should be given to designing for phased capacity increases.  
29 Provide number of new customers committed to this project.  
30

31 4) ALTERNATIVES CONSIDERED

32

33 This section should contain a description of the alternatives that were considered in  
34 planning a solution to meet the identified needs. Documentation of alternatives  
35 considered is often a Report weakness. Alternative approaches to ownership and  
36 management, system design (including resource efficient or green alternatives), and  
37 sharing of services, including various forms of partnerships, should be considered. In  
38 addition, the following alternatives should be considered, if practicable: building new  
39 centralized facilities, optimizing the current facilities (no construction), developing  
40 centrally managed decentralized systems, including small cluster or individual systems,  
41 and developing an optimum combination of centralized and decentralized systems.  
42 Alternatives should be consistent with those considered in the NEPA, or state equivalent,  
43 environmental review. Technically infeasible alternatives that were considered should be  
44 mentioned briefly along with an explanation of why they are infeasible, but do not  
45 require full analysis. For each technically feasible alternative, the description should  
46 include the following information:  
47

- 48 a) Description. Describe the facilities associated with every technically feasible  
49 alternative. Describe source, conveyance, treatment, storage and distribution

1 facilities for each alternative. A feasible system may include a combination of  
2 centralized and decentralized (on-site or cluster) facilities.  
3

- 4 b) Design Criteria. State the design parameters used for evaluation purposes. These  
5 parameters should comply with federal, state, and agency design policies and  
6 regulatory requirements.  
7
- 8 c) Map. Provide a schematic layout map to scale and a process diagram if  
9 applicable. If applicable, include future expansion of the facility.  
10
- 11 d) Environmental Impacts. Provide information about how the specific alternative  
12 may impact the environment. Describe only those unique direct and indirect  
13 impacts on floodplains, wetlands, other important land resources, endangered  
14 species, historical and archaeological properties, etc., as they relate to each  
15 specific alternative evaluated. Include generation and management of residuals  
16 and wastes.  
17
- 18 e) Land Requirements. Identify sites and easements required. Further specify  
19 whether these properties are currently owned, to be acquired, leased, or have  
20 access agreements.  
21
- 22 f) Potential Construction Problems. Discuss concerns such as subsurface rock, high  
23 water table, limited access, existing resource or site impairment, or other  
24 conditions which may affect cost of construction or operation of facility.  
25
- 26 g) Sustainability Considerations. Sustainable utility management practices include  
27 environmental, social, and economic benefits that aid in creating a resilient utility.  
28
- 29 i) Water and Energy Efficiency. Discuss water reuse, water efficiency, water  
30 conservation, energy efficient design (i.e. reduction in electrical demand),  
31 and/or renewable generation of energy, and/or minimization of carbon  
32 footprint, if applicable to the alternative. Alternatively, discuss the water and  
33 energy usage for this option as compared to other alternatives.  
34
- 35 ii) Green Infrastructure. Discuss aspects of project that preserve or mimic  
36 natural processes to manage stormwater, if applicable to the alternative.  
37 Address management of runoff volume and peak flows through infiltration,  
38 evapotranspiration, and/or harvest and use, if applicable.  
39
- 40 iii) Other. Discuss any other aspects of sustainability (such as resiliency or  
41 operational simplicity) that are incorporated into the alternative, if applicable.  
42
- 43 h) Cost Estimates. Provide cost estimates for each alternative, including a  
44 breakdown of the following costs associated with the project: construction, non-  
45 construction, and annual O&M costs. A construction contingency should be  
46 included as a non-construction cost. Cost estimates should be included with the  
47 descriptions of each technically feasible alternative. O&M costs should include a  
48 rough breakdown by O&M category (see example below) and not just a value for  
49 each alternative. Information from other sources, such as the recipient's  
50 accountant or other known technical service providers, can be incorporated to  
51 assist in the development of this section. The cost derived will be used in the life  
52 cycle cost analysis described in Section 5 a.  
53

1

Example O&M Cost Estimate	
Personnel (i.e. Salary, Benefits, Payroll Tax, Insurance, Training)	
Administrative Costs (e.g. office supplies, printing, etc.)	
Water Purchase or Waste Treatment Costs	
Insurance	
Energy Cost (Fuel and/or Electrical)	
Process Chemical	
Monitoring & Testing	
Short Lived Asset Maintenance/Replacement*	
Professional Services	
Residuals Disposal	
Miscellaneous	
Total	

\* See Appendix A for example list

2

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4

## 5) SELECTION OF AN ALTERNATIVE

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Selection of an alternative is the process by which data from the previous section, “Alternatives Considered” is analyzed in a systematic manner to identify a recommended alternative. The analysis should include consideration of both life cycle costs and non-monetary factors (i.e. triple bottom line analysis: financial, social, and environmental). If water reuse or conservation, energy efficient design, and/or renewable generation of energy components are included in the proposal provide an explanation of their cost effectiveness in this section.

15

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23

a) Life Cycle Cost Analysis. A life cycle present worth cost analysis (an engineering economics technique to evaluate present and future costs for comparison of alternatives) should be completed to compare the technically feasible alternatives. Do not leave out alternatives because of anticipated costs; let the life cycle cost analysis show whether an alternative may have an acceptable cost. This analysis should meet the following requirements and should be repeated for each technically feasible alternative. Several analyses may be required if the project has different aspects, such as one analysis for different types of collection systems and another for different types of treatment.

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1. The analysis should convert all costs to present day dollars;
2. The planning period to be used is recommended to be 20 years, but may be any period determined reasonable by the engineer and concurred on by the state or federal agency;
3. The discount rate to be used should be the “real” discount rate taken from Appendix C of OMB circular A-94 and found at ([www.whitehouse.gov/omb/circulars/a094/a94\\_appx-c.html](http://www.whitehouse.gov/omb/circulars/a094/a94_appx-c.html));
4. The total capital cost (construction plus non-construction costs) should be included;

- 1           5. Annual O&M costs should be converted to present day dollars using a uniform
- 2           series present worth (USPW) calculation;
- 3           6. The salvage value of the constructed project should be estimated using the
- 4           anticipated life expectancy of the constructed items using straight line
- 5           depreciation calculated at the end of the planning period and converted to
- 6           present day dollars;
- 7           7. The present worth of the salvage value should be subtracted from the present
- 8           worth costs;
- 9           8. The net present value (NPV) is then calculated for each technically feasible
- 10          alternative as the sum of the capital cost (C) plus the present worth of the
- 11          uniform series of annual O&M (USPW (O&M)) costs minus the single payment
- 12          present worth of the salvage value (SPPW(S)):

$$\text{NPV} = C + \text{USPW (O\&M)} - \text{SPPW (S)}$$

- 16          9. A table showing the capital cost, annual O&M cost, salvage value, present
- 17          worth of each of these values, and the NPV should be developed for state or
- 18          federal agency review. All factors (major and minor components), discount
- 19          rates, and planning periods used should be shown within the table.
- 20          10. Short lived asset costs (See Appendix A for examples) should also be included
- 21          in the life cycle cost analysis if determined appropriate by the consulting
- 22          engineer or agency. Life cycles of short lived assets should be tailored to the
- 23          facilities being constructed and be based on generally accepted design life.
- 24          Different features in the system may have varied life cycles.

- 26          b) Non-Monetary Factors. Non-monetary factors, including social and
- 27          environmental aspects (e.g. sustainability considerations, operator training
- 28          requirements, permit issues, community objections, reduction of greenhouse gas
- 29          emissions, wetland relocation) should also be considered in determining which
- 30          alternative is recommended and may be factored into the calculations.

## 32          6) PROPOSED PROJECT (RECOMMENDED ALTERNATIVE)

33  
34          The engineer should include a recommendation for which alternative(s) should be

35          implemented. This section should contain a fully developed description of the proposed

36          project based on the preliminary description under the evaluation of alternatives. Include

37          a schematic for any treatment processes, a layout of the system, and a location map of the

38          proposed facilities. At least the following information should be included as applicable

39          to the specific project:

- 41          a) Preliminary Project Design.

- 42                  i) Drinking Water:

43                          Water Supply. Include requirements for quality and quantity. Describe

44                          recommended source, including site and allocation allowed.

45

46

47

1 Treatment. Describe process in detail (including whether adding,  
2 replacing, or rehabilitating a process) and identify location of plant and  
3 site of any process discharges. Identify capacity of treatment plant (i.e.  
4 Maximum Daily Demand).

5  
6 Storage. Identify size, type and location.

7  
8 Pumping Stations. Identify size, type, location and any special power  
9 requirements. For rehabilitation projects, include description of  
10 components upgraded.

11  
12 Distribution Layout. Identify general location of new pipe, replacement,  
13 or rehabilitation: lengths, sizes and key components.

14  
15 ii) Wastewater/Reuse:

16  
17 Collection System/Reclaimed Water System Layout. Identify general  
18 location of new pipe, replacement or rehabilitation: lengths, sizes, and key  
19 components.

20  
21 Pumping Stations. Identify size, type, site location, and any special power  
22 requirements. For rehabilitation projects, include description of  
23 components upgraded.

24  
25 Storage. Identify size, type, location and frequency of operation.

26  
27 Treatment. Describe process in detail (including whether adding,  
28 replacing, or rehabilitating a process) and identify location of any  
29 treatment units and site of any discharges (end use for reclaimed water).  
30 Identify capacity of treatment plant (i.e. Average Daily Flow).

31  
32 iii) Solid Waste:

33  
34 Collection. Describe process in detail and identify quantities of material  
35 (in both volume and weight), length of transport, location and type of  
36 transfer facilities, and any special handling requirements.

37  
38 Storage. If any, describe capacity, type, and site location.

39  
40 Processing. If any, describe capacity, type, and site location.

41  
42 Disposal. Describe process in detail and identify permit requirements,  
43 quantities of material, recycling processes, location of plant, and site of  
44 any process discharges.

45  
46 iv) Stormwater:

47  
48 Collection System Layout. Identify general location of new pipe,  
49 replacement or rehabilitation: lengths, sizes, and key components.

50  
51 Pumping Stations. Identify size, type, location, and any special power  
52 requirements.

1                    Treatment. Describe treatment process in detail. Identify location of  
2 treatment facilities and process discharges. Capacity of treatment process  
3 should also be addressed.

4  
5                    Storage. Identify size, type, location and frequency of operation.  
6

7                    Disposal. Describe type of disposal facilities and location.  
8

9                    Green Infrastructure. Provide the following information for green  
10 infrastructure alternatives:

- 11                    • Control Measures Selected. Identify types of control measures  
12 selected (e.g., vegetated areas, planter boxes, permeable pavement,  
13 rainwater cisterns).
- 14                    • Layout: Identify placement of green infrastructure control measures,  
15 flow paths, and drainage area for each control measure.
- 16                    • Sizing: Identify surface area and water storage volume for each green  
17 infrastructure control measure. Where applicable, soil infiltration rate,  
18 evapotranspiration rate, and use rate (for rainwater harvesting) should  
19 also be addressed.
- 20                    • Overflow: Describe overflow structures and locations for conveyance  
21 of larger precipitation events.  
22

23  
24                    b) Project Schedule. Identify proposed dates for submittal and anticipated approval  
25 of all required documents, land and easement acquisition, permit applications,  
26 advertisement for bids, loan closing, contract award, initiation of construction,  
27 substantial completion, final completion, and initiation of operation.  
28

29                    c) Permit Requirements. Identify any construction, discharge and capacity permits  
30 that will/may be required as a result of the project.  
31

32                    d) Sustainability Considerations (if applicable).  
33

34                    i) Water and Energy Efficiency. Describe aspects of the proposed project  
35 addressing water reuse, water efficiency, and water conservation, energy  
36 efficient design, and/or renewable generation of energy, if incorporated into  
37 the selected alternative.  
38

39                    ii) Green Infrastructure. Describe aspects of project that preserve or mimic  
40 natural processes to manage stormwater, if applicable to the selected  
41 alternative. Address management of runoff volume and peak flows through  
42 infiltration, evapotranspiration, and/or harvest and use, if applicable.  
43

44                    iii) Other. Describe other aspects of sustainability (such as resiliency or  
45 operational simplicity) that are incorporated into the selected alternative, if  
46 incorporated into the selected alternative.  
47

48                    e) Total Project Cost Estimate (Engineer's Opinion of Probable Cost). Provide an  
49 itemized estimate of the project cost based on the stated period of construction.  
50 Include construction, land and right-of-ways, legal, engineering, construction  
51 program management, funds administration, interest, equipment, construction  
52 contingency, refinancing, and other costs associated with the proposed project.  
53 The construction subtotal should be separated out from the non-construction  
54 costs. The non-construction subtotal should be included and added to the

1 construction subtotal to establish the total project cost. An appropriate  
2 construction contingency should be added as part of the non-construction subtotal.  
3 For projects containing both water and waste disposal systems, provide a separate  
4 cost estimate for each system as well as a grand total. If applicable, the cost  
5 estimate should be itemized to reflect cost sharing including apportionment  
6 between funding sources. The engineer may rely on the owner for estimates of  
7 cost for items other than construction, equipment, and engineering.  
8

- 9 f) Annual Operating Budget. Provide itemized annual operating budget  
10 information. The owner has primary responsibility for the annual operating  
11 budget, however, there are other parties that may provide technical assistance.  
12 This information will be used to evaluate the financial capacity of the system.  
13 The engineer will incorporate information from the owner's accountant and other  
14 known technical service providers.  
15
- 16 i) Income. Provide information about all sources of income for the system  
17 including a proposed rate schedule. Project income realistically for existing  
18 and proposed new users separately, based on existing user billings, water  
19 treatment contracts, and other sources of income. In the absence of historic  
20 data or other reliable information, for budget purposes, base water use on 100  
21 gallons per capita per day. Water use per residential connection may then be  
22 calculated based on the most recent U.S. Census, American Community  
23 Survey, or other data for the state or county of the average household size.  
24 When large agricultural or commercial users are projected, the Report should  
25 identify those users and include facts to substantiate such projections and  
26 evaluate the impact of such users on the economic viability of the project.  
27
- 28 ii) Annual O&M Costs. Provide an itemized list by expense category and project  
29 costs realistically. Provide projected costs for operating the system as  
30 improved. In the absence of other reliable data, base on actual costs of other  
31 existing facilities of similar size and complexity. Include facts in the Report  
32 to substantiate O&M cost estimates. Include personnel costs, administrative  
33 costs, water purchase or treatment costs, accounting and auditing fees, legal  
34 fees, interest, utilities, energy costs, insurance, annual repairs and  
35 maintenance, monitoring and testing, supplies, chemicals, residuals disposal,  
36 office supplies, printing, professional services, and miscellaneous as  
37 applicable. Any income from renewable energy generation which is sold back  
38 to the electric utility should also be included, if applicable. If applicable, note  
39 the operator grade needed.  
40
- 41 iii) Debt Repayments. Describe existing and proposed financing with the  
42 estimated amount of annual debt repayments from all sources. All estimates  
43 of funding should be based on loans, not grants.  
44
- 45 iv) Reserves. Describe the existing and proposed loan obligation reserve  
46 requirements for the following:  
47
- 48 Debt Service Reserve – For specific debt service reserve requirements  
49 consult with individual funding sources. If General Obligation bonds are  
50 proposed to be used as loan security, this section may be omitted, but this  
51 should be clearly stated if it is the case.  
52

1                    Short-Lived Asset Reserve – A table of short lived assets should be  
2 included for the system (See Appendix A for examples). The table should  
3 include the asset, the expected year of replacement, and the anticipated  
4 cost of each. Prepare a recommended annual reserve deposit to fund  
5 replacement of short-lived assets, such as pumps, paint, and small  
6 equipment. Short-lived assets include those items not covered under  
7 O&M, however, this does not include facilities such as a water tank or  
8 treatment facility replacement that are usually funded with long-term  
9 capital financing.

10  
11        7.        CONCLUSIONS AND RECOMMENDATIONS

12  
13        Provide any additional findings and recommendations that should be considered in development  
14 of the project. This may include recommendations for special studies, highlighting of the need  
15 for special coordination, a recommended plan of action to expedite project development, and any  
16 other necessary considerations.

1 Appendix A: Example List of Short-Lived Asset Infrastructure

2

<b>Estimated Repair, Rehab, Replacement Expenses by Item within up to 20 Years from Installation)</b>	
<b>Drinking Water Utilities</b>	<b>Wastewater Utilities</b>
<p><b>Source Related</b></p> <ul style="list-style-type: none"> <li>Pumps</li> <li>Pump Controls</li> <li>Pump Motors</li> <li>Telemetry</li> <li>Intake/ Well screens</li> <li>Water Level Sensors</li> <li>Pressure Transducers</li> </ul>	<p><b>Treatment Related</b></p> <ul style="list-style-type: none"> <li>Pump</li> <li>Pump Controls</li> <li>Pump Motors</li> <li>Chemical feed pumps</li> <li>Membrane Filters Fibers</li> <li>Field &amp; Process Instrumentation Equipment</li> <li>UV lamps</li> <li>Centrifuges</li> <li>Aeration blowers</li> <li>Aeration diffusers and nozzles</li> <li>Trickling filters, RBCs, etc.</li> <li>Belt presses &amp; driers</li> <li>Sludge Collecting and Dewatering Equipment</li> <li>Level Sensors</li> <li>Pressure Transducers</li> <li>Pump Controls</li> <li>Back-up power generator</li> <li>Chemical Leak Detection Equipment</li> <li>Flow meters</li> <li>SCADA Systems</li> </ul>
<p><b>Treatment Related</b></p> <ul style="list-style-type: none"> <li>Chemical feed pumps</li> <li>Altitude Valves</li> <li>Valve Actuators</li> <li>Field &amp; Process Instrumentation Equipment</li> <li>Granular filter media</li> <li>Air compressors &amp; control units</li> <li>Pumps</li> <li>Pump Motors</li> <li>Pump Controls</li> <li>Water Level Sensors</li> <li>Pressure Transducers</li> <li>Sludge Collection &amp; Dewatering</li> <li>UV Lamps</li> <li>Membranes</li> <li>Back-up power generators</li> <li>Chemical Leak Detection Equipment</li> <li>Flow meters</li> <li>SCADA Systems</li> </ul>	<p><b>Collection System Related</b></p> <ul style="list-style-type: none"> <li>Pump</li> <li>Pump Controls</li> <li>Pump Motors</li> <li>Trash racks/bar screens</li> <li>Sewer line rodding equipment</li> <li>Air compressors</li> <li>Vaults, lids, and access hatches</li> <li>Security devices and fencing</li> <li>Alarms &amp; Telemetry</li> <li>Chemical Leak Detection Equipment</li> </ul>
<p><b>Distribution System Related</b></p> <ul style="list-style-type: none"> <li>Residential and Small Commercial Meters</li> <li>Meter boxes</li> <li>Hydrants &amp; Blow offs</li> <li>Pressure reducing valves</li> <li>Cross connection control devices</li> <li>Altitude valves</li> <li>Alarms &amp; Telemetry</li> <li>Vaults, lids, and access hatches</li> <li>Security devices and fencing</li> <li>Storage reservoir painting/patching</li> </ul>	

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*Appendix F. EPA Tribal Clean Water  
Program TDI Nex Data Entry Guidelines*

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**EPA Tribal Clean Water Indian Set Aside Program  
Tribal Direct Implementation Nexus (TDI Nex)  
Data Guidelines  
March 2012**

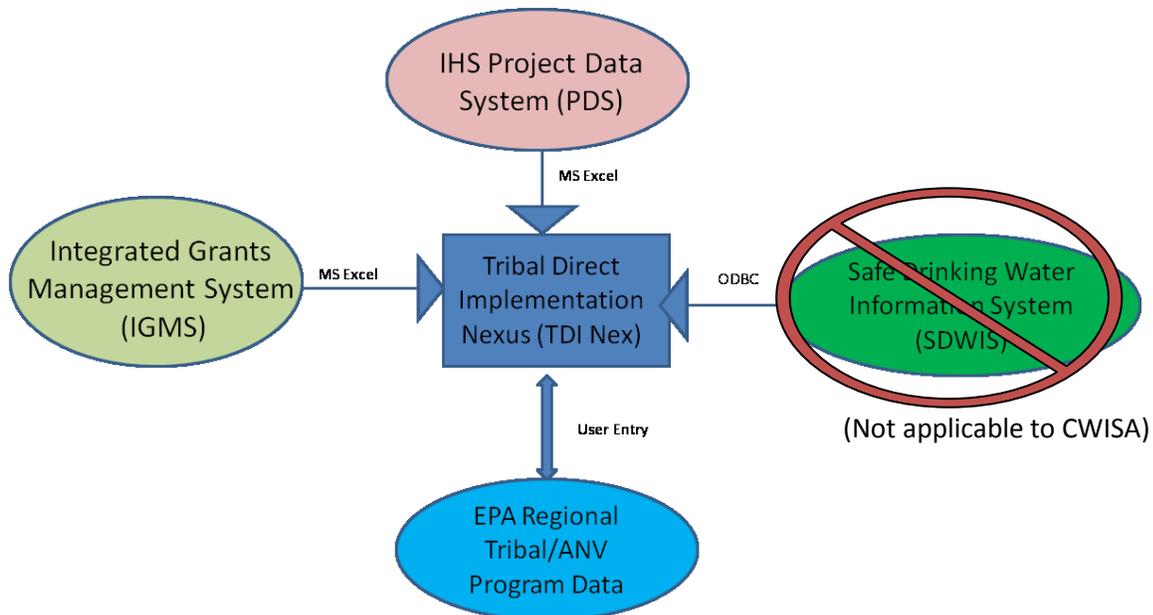
**I. Introduction**

The Tribal Direct Implementation Nexus (TDI Nex) unites existing data systems from the Environmental Protection Agency (EPA) and Indian Health Service (IHS) with EPA Regional Tribal and Alaska Native Village (ANV) program data to assist in the oversight of the Clean Water Indian Set Aside (CWISA) Program. Information from existing agency wide data systems: the IHS Project Data System (PDS), the EPA Integrated Grants Management System (IGMS), and the EPA Safe Drinking Water Information System (SDWIS) form the backbone of the TDI Nex. The EPA Regional Tribal/ANV data supplements the existing data sources to improve EPA’s ability to describe the success of the CWISA program.

This document and tool was developed in conjunction with the Drinking Water Infrastructure Grants Tribal Set Aside (DWIG-TSA) Program. There is a separate TDI Nex guidelines document for the drinking water program. SDWIS data is not applicable to CWISA funded projects

This document summarizes data fields available through the TDI Nex Tool and the responsibility and frequency of data updates. The use of this tool is scheduled to start with the FY 2012 funding year and aims to continue for future funding cycles or until future notice.

**Figure 1: Data Sources Integrated via the TDI Nex**



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27

1           **II. Purpose of Data Integration**

2           The data integration effort is part of an overall strategy by EPA to better establish the  
 3 specific public health benefits realized in both State and tribal communities by the State  
 4 Revolving Fund and the Tribal set aside programs. Data Integration will also improve EPA’s  
 5 ability to: demonstrate the use of CWISA funds and identify aspects of program implementation  
 6 that lead to lasting success in Indian country. The TDI Nex tool will be used to improve  
 7 accountability of the CWISA program by helping to track and summarize the annual fund usage  
 8 over time. The outputs of the tool will be used to help the CWISA program demonstrate  
 9 successful implementation over time including a summary of EPA infrastructure investments.  
 10 The specific Region entered data fields are intended to support EPA’s goal of improved program  
 11 accountability.

12  
 13           **III. Summary of Data Responsibility**

14  
 15           Table 1 summarizes the minimum update frequency and responsibility entity  
 16 associated with the four data sources integrated by the TDI Nex. EPA Headquarters will be  
 17 responsible for updating the IGMS, IHS PDS and SDWIS data sources quarterly. It is requested  
 18 that the Regional Program Data should be updated by the EPA Regions at a minimum prior to  
 19 each of the bi-annual Regional—Headquarters check in discussions. Additionally, any project  
 20 changes that impact the regional data fields (see Table 3 below) and occur outside of scheduled  
 21 meetings should be updated within 30 calendar days of the change.

22  
 23           **Table 1: Data Source Minimum Update Frequency and Responsibility**

<b>Data Source</b>	<b>Minimum Update Frequency</b>	<b>Responsibility Entity</b>	<b>Notes</b>
Integrated Grants Management System (IGMS)	Quarterly	EPA HQ	-
Safe Drinking Water Information System (SDWIS)	Quarterly	EPA HQ	N/A to CWISA
IHS Project Data System (PDS)	Quarterly	EPA HQ	-
Regional Tribal and ANV Program Data	Bi-Annually prior to check-in meetings	EPA Regions	-

24           **IV. Description of Data Sources**

25           The following section describes the data fields associated with each database  
 26 included in the TDI Nex tool.

27  
 28           **A. Integrated Grants Management System (IGMS) Data**

29           The Integrated Grants Management Systems (IGMS) is a database used by EPA to  
 30 manage grant and interagency agreement funding agency wide. Twenty – three (23) IGMS data

1 fields that are of importance to EPA’s tribal clean water program have been incorporated into  
 2 the TDI Nex via a data pull from IGMS that is scheduled to be completed quarterly by EPA  
 3 Headquarters and uploaded to the TDI Nex tool via an excel spreadsheet. The IGMS data will  
 4 include the follow fields:  
 5

6 **Table 2: Integrated Grants Management System Data Fields Included in the TDI Nex**

Awarding Region Code	Project Start Date
Applicant Type	Project End Date
Project Officer	Applicant Name
Award Date	EPA Amount This Action
Award Fiscal Year	Total EPA Amount Awarded to Date
Grant No	Recipient Contribution: Amended Total
Grant Family	Other Federal Funds: Amended Total
Grant Status	EPA Amount : Amended Total
Program Code	Expenditure Amount
Project Description	Unliquidated Obligation Amt
Project Title	Final Report
	Final Report Date

7 Detailed description of the data fields in IGMS can be found at this web link:  
 8 <http://www.epa.gov/enviro/facts/igms/userguide.html>  
 9

10 **B. Indian Health Service Project Data System (PDS) Data**

11 The Indian Health Service (IHS) maintains six data systems within the Sanitation Tracking  
 12 and Reporting System (STARS). The data system that is of most importance to the fiduciary  
 13 responsibilities of the EPA’s tribal clean water set aside program is the Project Data System  
 14 (PDS). PDS data is used by IHS to track construction project progress. Fifty-two (52) PDS data  
 15 fields of importance to EPA’s tribal clean water program will be incorporated in the TDI Nex  
 16 via a quarterly data pull to be coordinated between EPA and IHS Headquarters. EPA  
 17 Headquarters will upload the data to the TDI Nex tool quarterly. The data from PDS will be  
 18 arranged in six (6) tabs (Project Details, Project Milestones, Homes, Project Costs, Project  
 19 Funding and IA Project Ids) and will include the following fields:  
 20

21 **Table 3: IHS Project Data System Data Fields Included in the TDI Nex**

IHS Area	Percent Project Complete
PDS Project Number	Percent Funds Expended
EPA Region	MOA Signed Date
Project Name	Construction Start Date
Tribe	Construction Complete Date
Community State Code	Final Report Date
Community Name	Last Update
Project Homes	Housing Group
Total Cost	Home Type
Total Funding	Number Homes

Percent Construction Complete	Homes Served
Percent Project Complete	Initial Deficiency Level (IDL)
Percent Funds Expended	Final Deficiency Level (FDL)
MOA Signed Date	First Service Homes
Construction Start Date	Funding Source Code
Construction Complete Date	Funding Source Name
Final Report Date	Fiscal Year
Last Update	Funding Year
Scope	Estimated Cost
Percent Construction Complete*	Actual Cost
Construction Document Start Date *	Document Num. ("Interagency Agreement")
Construction Documents Complete Date *	Estimated Amount
Construction Phase Start Date *	Estimated Expenditure
Construction Phase End Date *	Document ("Interagency Agreement") Signed Date
* Includes: Proposed, Estimated, and Actual Dates.	Start Date
	End Date
	Document ("Interagency Agreement") Amount

1  
2 Additional information regarding these data fields can be found in the *Sanitation Tracking and Reporting System User Manual (September 2008)*.

3  
4  
5 **C. Safe Drinking Water Information System (SDWIS) Data**

6 The SDWIS contains information about public water systems and their violation of EPA's  
7 drinking water regulations, and is not applicable to CWISA funded projects.

8  
9 **D. EPA Regional/ANV Tribal Program Data**

10 Table 4 contains five key numeric data fields Regions are asked to fill in order to  
11 reference data tables within the tool.

12  
13 **Table 4: Region Entered Project Identifiers**

14

Data Field	Description	Source	Data Field Location in TDI Nex
Funding Source	Identifies where the program funds will be taken from	EPA Region	Clean Water Project Detail
Region Project ID#	Number which will identify projects before there are IGMS or PDS numbers available	EPA Region	Clean Water Project Detail

Data Field	Description	Source	Data Field Location in TDI Nex
IHS IA/PDS Number	Number associated with IA funded project	IHS (Must be entered by EPA Region)	Clean Water Project Detail
IA Number	Number which identifies the Interagency Agreement under which the project is funded	EPA Region	Clean Water Project Detail
EPA Grant Number	Number associated with direct grant project	EPA Region	Clean Water Project Detail

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Table 5 lists **optional** data fields that can be used as needed by Regions to assist in their CWISA program management. The fields described in Table 5 represent data that is currently not tracked by any of the aforementioned existing databases, but are required under the 1998 **DWIG-TSA** Program Guidelines (not required by CWISA guidelines). As a condition of the EPA National Tribal Drinking Water Operator Certification program and as part of an overall effort by EPA to better establish the specific public health benefits realized in both State and tribal communities by the Sate Revolving Fund and DWIG-TSA programs, **DWIG-TSA** Regional project managers will be responsible for data entry for the fields listed in Table 5.

**Table 5: Region Entered Data Fields (optional for CWISA projects)**

Reference Number	Region Entered Data Field	Description	Notes	Data Field Location in TDI Nex
a	Certified Operator(s) appropriate to operate/maintain current infrastructure	Y/N	At the time of project application	Clean Water Project Detail
b	Certified Operator(s) appropriate to operate/maintain future infrastructure	Y/N/Agrees to Obtain	At the time of project application	Clean Water Project Detail
c	Project Purpose	Narrative of the specific public health benefit (s) achieved by this project	See Section IV-D-2 for additional guidance.	Clean Water Project Detail
d	Primary Project Purpose	Pick List menu of purpose categories to provide sortable data	See Section IV-D-3 for additional guidance.	Clean Water Project Detail

e	Primary Infrastructure category	Enable project to be categorized by infrastructure type(s) (attached)	See Section IV-D-4 for additional guidance.	Clean Water Project Detail
f	Technical Assistance (TA) Provided	Drop down EPA Funded TA, Other Funded TA, EPA and Other Funded TA or None.	Currently or in the last 12 months prior to project application.	Clean Water Project Detail
g	System has the technical, managerial, and financial capacity to operate the planned infrastructure	Y/N (condition of funding from SDWA and 1998 Guidance)	At the time of project application	Clean Water Project Detail
h	Capacity Agreement	Y/N tribal entity responsible for funding system operations has entered into an agreement to develop the capacity to operate the planned infrastructure	Conditional	Clean Water Project Detail
i	Fiscal Year Funding Tag	Identifies the fiscal year of the funds used for the project		Clean Water Project Detail
j	Project phased	Yes/No		Clean Water Project Detail

1  
 2 Table 6 list additional optional data fields that can be used as needed by Regions to assist in  
 3 their CWISA program management.

4  
 5 **Table 6: Region Entered Data Fields (optional for CWISA projects)**  
 6

Reference Number	Region Entered Data Field	Description	Notes	Data Field Location in TDI Nex
k	Secondary Project Purpose	Allows categorization of an additional project purpose	Pick List	Clean Water Project Detail
l	Secondary Infrastructure Category	Allows categorization of an additional infrastructure category	Pick List	Clean Water Project Detail
m	Responsible Entity	Responsible entity for oversight of the wastewater system pick list tribal utility board,	Pick list	Clean Water Project Detail

		tribal council, federal government, local (non-tribal) government or none		
n	System O&M Funding Sources	Identifies the funding sources and percent that each attribute to each of the operation and maintenance of the system. List all sources of funds (user fees, tribal enterprise, tribal general funds, federal government or other.)	See Section IV-D-5 for additional guidance	Clean Water Project Detail
O	System Receiving Infrastructure has Asset Management Program	Y/N/Will receive tool as part of project		Clean Water Project Detail
p	Project Prioritization Score	Ranking scheme based on Regional solicitation and prioritization process		Clean Water Project Detail
q	Regional Funding Tracking	Field used to track returned and de-obligated project funds to ensure full project accounting.	As needed	

1 **1. Regional Entered Data Field Descriptions**

- 2 a. **Certified Drinking Water/Wastewater Operator(s) appropriate to operate/maintain**
- 3 **current infrastructure (optional):** The intent of this field (Yes/No) is to establish if the
- 4 system receiving project funds is being operated an adequately trained and certified
- 5 operator. This helps ensure the system has adequate technical, managerial, and
- 6 financial capacity.
- 7 b. **Drinking Water/Wastewater Certified Operator(s) appropriate to operate/maintain**
- 8 **future infrastructure or agreement to obtain (optional):** The intent of this field
- 9 (Yes/No/Agrees to Obtain) is to indicate if the system receiving funds will be operated
- 10 by adequately trained and certified operator following project completion. An
- 11 appropriately certified operator helps ensure the system has adequate technical,
- 12 managerial, and financial capacity.
- 13 c. **Project Purpose Narrative (optional):** the intent of this narrative field is to specifically
- 14 establish how the infrastructure funded by the Tribal set aside will improve public
- 15 health in Indian country by; a.) facilitating compliance with the Clean Water Act (CWA)
- 16 and/or b.) significantly furthering the health objectives of the CWA and CWISA

- 1 Program Guidelines. The population of this field explains the contribution a project  
 2 has to public health protection as indicated by the traditional program measure for  
 3 the provision of access to safe wastewater sanitation services (WQ-24) and/or other  
 4 public health impacts. Additional details provided in Section IV-D-2 below.
- 5 d. **Primary Project Purpose Category (optional):** the intent of this data pick list field is to  
 6 provide easy sorting of projects for data summary and analysis purposes according to  
 7 categories of public health purpose. Additional details provided in Section IV-D-3
- 8 e. **Primary Infrastructure category (optional):** The intent of this pick list field is to  
 9 systematically categorize the infrastructure funded by the Tribal set aside programs.  
 10 Data in this field will allow for a more complete summarization and analysis of the  
 11 infrastructure built by EPA in Indian country (e.g. most common infrastructure  
 12 category is addressing limited wastewater capacity). Data in this field will promote the  
 13 adoption of best practices and allow EPA to quickly identify the general use of funds  
 14 for a particular system or tribe. Additional detail on this field is provided in Section IV-  
 15 D-4.
- 16 f. **Technical Assistance Provided (optional):** The intent of this field pick list is to establish  
 17 if a system receiving CWISA funds is receiving or has received support from services  
 18 funded by EPA, other technical assistance support, or none in the last 12 months prior  
 19 to funding application. Information in this field will enable EPA to better understand  
 20 the capacity support provided for each project and promote comparative analysis of  
 21 post project outcomes.
- 22 g. **Technical, managerial, and financial (TMF) capacity (optional):** The intent of this field  
 23 (Yes/No) is to establish that the system receiving CWISA funds currently has adequate  
 24 technical, managerial, and financial capacity.
- 25 h. **Capacity Agreement (optional):** The intent of this field (Yes/No) is to establish that a  
 26 system receiving CWISA funds that does not possess adequate technical, managerial,  
 27 and financial capacity has entered into an agreement to undertake feasible changes in  
 28 operations necessary to ensure that the system has the technical, managerial, and  
 29 financial capability.
- 30 i. **Fiscal Year Funding Tag (optional):** The intent of this field is to establish the primary  
 31 fiscal year of the funds awarded to an infrastructure project. If a project utilizes  
 32 multiple funding years, the EPA Region should select the fiscal year from which the  
 33 majority of the project funds originated.
- 34 j. **Project Phased (optional):** The intent of this Y/N field is to determine if additional  
 35 project phases must be completed before the project purpose is fulfilled. If in order to  
 36 fulfill the project purposed additional project(s) must be complete then the project is  
 37 phased (Yes). If the project purpose will be met when this project is complete -  
 38 without a need for additional funding - then the project is not phased (No).

- 1 k. **Secondary Project Purpose (optional):** The intent of this field is to allow regions to  
 2 categorize a secondary project purpose.
- 3 l. **Secondary Infrastructure Category (optional):** The intent of this field is to allow  
 4 regions to categorize additional infrastructure categories as applicable.
- 5 m. **Responsible Entity (optional):** The intent of this pick list field is to establish how  
 6 operation of the wastewater system receiving CWISA funding is overseen (e.g. a utility  
 7 board, tribal council, local non-tribal government, federal government or none).  
 8 Information in this field will provide insight on the organizational set-up of wastewater  
 9 systems receiving EPA funds.
- 10 n. **Wastewater System O&M Funding Source (optional):** The intent of this field is to  
 11 determine the source(s) of funds utilized by the utility system to regularly maintain  
 12 and operate its facilities. Information in this field will provide insight on the  
 13 organizational set-up of wastewater systems receiving EPA Tribal set aside funds and  
 14 help identify systems/projects that may benefit from managerial and financial capacity  
 15 training to help ensure optimal operation of infrastructure over its lifetime. Additional  
 16 detail on this field is provided in Section IV-D-5.
- 17 o. **System Receiving Infrastructure has Asset Management Program (optional):** The  
 18 intent of this field is to establish if the system receiving the CWISA funded  
 19 infrastructure has or will have by project completion, a program to effectively manage  
 20 their existing and future assets. EPA has an interest in providing asset management  
 21 tools for systems in Indian country to help ensure proper operation of water  
 22 infrastructure to achieve continual compliance with the CWA and to avoid  
 23 unnecessary use of program funds.
- 24 p. **Regional Project Ranking (optional):** This intent of this field is for use by EPA Regions,  
 25 to indicate the regional ranking associated with a project.
- 26 q. **Regional Fund Tracking (optional):** The intent of this field is to track funding of  
 27 projects that utilize funds from multiple fiscal years.

28 **2. Project Purpose Narrative Data Field Entry Guidelines**

29 The minimal reporting guidelines for data entry in the Project Purpose field by EPA Regional  
 30 staff are described below. This data may be entered into either:

- 31
- 32 i. The “Project Description” data field in IGMS data system for direct grant and IA funded  
 33 projects
- 34 ii. The “Project Description” data in IHS PDS data system for IA funded projects
- 35 iii. The “Project Purpose Narrative” data field in the TDI Nex for direct grant and IA funded  
 36 projects

1 If possible, it is recommended that EPA Regional staff utilize option (i) to ensure the quality of  
 2 the data contained within the “Project Description” field in IGMS is consistent across EPA data  
 3 systems and to reduce duplicative data entry requirements.

4  
 5 Option ii could be used for CWISA projects funded through IAs with IHS. Under this option, the  
 6 EPA Regions could ask the IHS Area to input the level of detail requested by EPA into the PDS  
 7 data system.

8  
 9 Option iii relies upon duplicative direct data entry into the TDI Nex and data is entered into the  
 10 Project Purpose field.

11  
 12 Project purpose narrative field data that meets these guidelines will only need to be re-visited  
 13 by the EPA Region if changes in scope occur that alter a project’s purpose.

14 **a. Background:** The intent of this field is to establish how the infrastructure funded by the  
 15 Tribal set aside will improve public health in Indian country by; a.) facilitating  
 16 compliance with the CWA and/or b.) significantly furthering the health objectives of the  
 17 CWA and CWISA Guidelines. Data entered into this field must explain the contribution  
 18 an awarded project will make to the protection of public health as demonstrated by the  
 19 EPA Tribal Clean Water program measure: WQ-24 and/or other health indicators.

- 20 • **WQ-24.N11:** Number of American Indian and Alaska Native homes provided  
 21 access to basic sanitation in coordination with other federal agencies.

22 **b. Data Field Guidelines:** This field should be populated by 1 or more sentences that  
 23 include the following:

- 24 • Identification of the specific system infrastructure deficiencies addressed by the  
 25 awarded project
  - 26 ○ Identification of the total system infrastructure deficiencies (for phased and  
 27 shared cost projects)
- 28 • Description of the negative public health effects and/or threats caused by the  
 29 identified system infrastructure deficiencies (include an estimate of population  
 30 affected for phased, first service, new wastewater system, shared cost, and  
 31 feasibility study projects)
  - 32 ○ Public health effect: a demonstrated and documented health impact on the  
 33 service population or the environment (e.g. health-based violations, water  
 34 quality monitoring data, health impairments due to wastewater exposure, etc.)
  - 35 ○ Public health threat: an identified situation that may lead to a public health  
 36 effect based upon existing water system deficiencies (e.g. lagoon seepage, point  
 37 source pollution, wastewater exposure etc.)

- 1 • Description of what infrastructure will be built and how that infrastructure will
- 2 address the identified deficiencies.
- 3 • Identification of the specific public health benefit(s) gained or negative public health
- 4 impact(s) avoided by addressing the infrastructure deficiencies.

5 **c. Data Entry Examples:**

6 (Examples are drafted for DWIG projects - CWISA funded projects may use similar language, as  
7 appropriate.)

8

9 *i. Existing System Upgrade*

10 This project will prevent TCR violations as well as address DBPR MCL exceedences for TTHMs  
11 caused by bacteriological growth and low pressure due undersized pipe, and dead-ends by  
12 replacing existing mains with 5000' of 10 inch pipe to loop the system which will improve the  
13 hydraulics, prevent growth and support compliant chlorine residuals.

14

15 *ii. First Service Extension*

16 The project directly addresses an ongoing Radionuclides Rule MCL violation at the current  
17 system (PWS ID 090400267) by taking the current system offline and extending the  
18 neighboring, NPDWR compliant Bald Hill water system to serve the 30 residents of Bald Hill on  
19 Hoopa Valley Tribal Lands. This grant will provide funds for the construction of 2 drinking water  
20 tanks, 2 pump stations, and 10,000 ft of 6" PVC pipeline. Pre-award costs have been approved  
21 back to August 1, 2004.

22

23 *iii. New System*

24 This project will address a significant risk to public health from bacteriological contamination  
25 and disruptions in service due to treatment malfunction and water main breaks. One main  
26 break resulted in a loss of pressure and required the issuance of a boil water notice. This grant  
27 will provide funds for the construction of a new community water system to serve the 60  
28 residents of the Kwigillingok Village in Alaska. The current system is scheduled to reach the end  
29 of its design life by 2014. The new system will include; a new treatment building and  
30 equipment, 1 new tank, and a new water main and distribution system. The new system will  
31 rely on a geothermal power plant installed by the Department of Energy to reduce operating  
32 costs and provide circulated heat to prevent pipe breaks.

33

34 *iv. Phased Project*

35 This project is Phase I of IV of an overall plan to construct a 50 mile transmission line and  
36 regional water system between Shiprock, NM and Sweetwater, AZ. The fully completed project  
37 will address Arsenic MCL violations at 5 water systems (NN0400571, NN0400572, NN0400574,  
38 NN0400575, and NN0400578) that serve 7832 residents/1958 homes in 7 communities with a  
39 current deficiency of 4. In addition, this project will increase revenues by expanding the rate

1 payer base and provide operational efficiencies to help address TCR MR repeat major violations  
 2 at NN0400572 and NN040574.

3 Phase I will address the Arsenic MCL violation for 600 homes (1200 residents) in the  
 4 Sweetwater System (NN0400571). Construction will include; two 500,000 gallon water storage  
 5 tanks in Sweetwater and Teec Nos Pos, a 300 gallon-per-minute (gpm) booster station in  
 6 Sweetwater with a 3-phase power line upgrade, 17,000' of 6" waterline between the  
 7 Sweetwater Master Well and the Sweetwater Franco-Western Well, 250' of 14" water  
 8 transmission line, booster station upgrades at two sites in Beclabito, and a new booster station  
 9 on the existing inter-tie between Cudei and Beclabito.

10 v. *Shared Cost Project*

11 This project will address a risk to public health from bacteriological contamination caused by  
 12 chlorination equipment malfunction and subsequent interruptions in service as well as a lack of  
 13 staffing by installing a new water treatment plant. This project includes construction of a new  
 14 building, two new high service pumps at the water treatment plant for pumping to the  
 15 community elevated water storage reservoir, two new high service pumps at the lake intake, a  
 16 chlorine contact tank with equalization storage at the water treatment plant, three chemical  
 17 treatment rooms for chorine/fluoride, ammonia, and filter cleaning chemicals, and modest  
 18 office and laboratory space for water treatment plant operation. This project is being funded by  
 19 EPA and IHS. EPA's contribution will be used to fund outside engineering services to provide  
 20 specialized design work needed for the geotechnical evaluation, the building and its systems,  
 21 and possibly the treatment process itself.

22  
 23 vi. *Feasibility Study*

24 This project is for a feasibility study to target the best option to directly address the Arsenic  
 25 Rule exemption at the Meneger's Dam water system set to expire in 2015. This project will  
 26 provide for a feasibility study to compare the total life time system costs of, but not limited to,  
 27 the following alternatives:

- 28
- 29 • Creating an expanded regional water system that will connect the Meneger's Dam water  
 30 system to the proposed Gu Vo/Pia Oik Regional Water System. The Gu Vo water system  
 31 will be combined with the Pia Oik water system under IHS projects TU 99-262 and TU  
 32 99-252, creating the Gu Vo/Pia Oik Regional Water System. The Gu VO/Pia Oik Regional  
 33 Water System will utilize a water source with an arsenic level of only 5 ppb.
- 34 • Provide a water treatment plant for the Meneger's Dam water system.

35 Findings from this study will be used to plan and design the most cost effective and expedient  
 36 solution to ensure public health protection under the Arsenic Rule for the population served by  
 37 the Meneger's Dam system.

38  
 39

1                    *vii. Other Infrastructure*

2 This project will directly address TCR MCL violations due to bacteriological contamination  
 3 caused by water system power loss and subsequent pressure loss. Loss of pressure in drinking  
 4 water systems is closely associated with bacteriological contamination of water supplies and  
 5 the risk of exposure to disease causing organisms. Both systems have experienced TCR MCL  
 6 violations and have issued boil water notices over the last year during power failures. One  
 7 diesel powered generator will be installed at the two small Tribal community water systems to  
 8 provide power during predictable interruptions in power supplied by San Diego General Electric  
 9 during wind storms and fire events and maintain pressure within the system.

10

11                    **3. Project Purpose Category Data Field Entry Guidelines**

12                    To enable the categorization and sorting of projects to summarize use of funds and  
 13 identify trends, the Project Purpose Category “pick list” may be used in conjunction with the  
 14 Project Purpose Narrative field. The following list of purpose categories is intended to identify  
 15 the public health impact of each project. Users are requested to select the primary and if  
 16 needed secondary categorical purpose for each CWISA funded project.

17

18 The infrastructure project will [check one] ( \_\_directly OR \_\_ as part of a phased approach):

19

- 20                    a. Address public exposure to untreated wastewater
- 21                    b. Address limited wastewater treatment capacity
- 22                    c. Provide first service to homes that lack access to basic sanitation
- 23                    d. Provide operational efficiencies and reduce O&M
- 24                    e. Other

25                    **4. Infrastructure Category Data Field Entry Guidelines**

26                    The Infrastructure Category pick list may be used to enable the categorization and  
 27 sorting of projects to summarize the use of funds and identify trends. The following list of  
 28 infrastructure categories is intended to clearly identify the main purpose of the wastewater  
 29 system capital expenditure funded directly by EPA. Users may select the primary and if needed  
 30 secondary infrastructure category for each CWISA funded project.

31

<b>Clean Water Indian Set Aside</b>	
<b>Project Infrastructure Categories<sup>1</sup></b>	
<b>Project Infrastructure Category</b>	<b>Description</b>
<b>Planning</b>	Engineering Project Report that includes: executive summary, background narrative, preliminary design description, alternative considered and recommended solution, permits required, O&M requirements, environmental considerations, and project cost estimate.
<b>Design</b>	Construction project plans and budget
<b>Wastewater Treatment Plant</b>	Screens, grit removal, clarifiers, sludge pumps, aeration, blowers, trickling filters, batch reactors, biological reactors, digesters, recirculating pumps, chemical feed, filtration, chlorination, dechlorination, UV disinfection, dewatering, biosolids management, nutrient removal, constructed wetlands, and sludge disposal
<b>Wastewater Lagoon</b>	Wastewater treatment lagoons, aeration basins and ponds, aerators, and sludge disposal
<b>Decentralized Wastewater Treatment</b>	Onsite septic systems for individual homes or small clusters of homes
<b>Wastewater Collection</b>	Wastewater mains (transport of wastewater through a piping grid serving customers), service line replacement, service lines, lift stations, clean outs, valves (gate, butterfly, etc.) control valves, backflow prevention devices, and meters.
<b>Other</b>	Laboratory capital costs for labs owned by the system, asset management software/program, computer and automation cost (SCADA), pump controls/telemetry, emergency power, security fencing, security other physical (lights, wall, manhole locks, other locks), security electronic/cyber (computer firewall, closed circuit TV), security monitoring tools (identify anomalies in process streams or finished water), flow meters, generators, & utility shop maintenance materials.

<sup>1</sup> Select categories adapted from professional technical knowledge and the Clean Watersheds Needs Survey. Items listed for each description are intended to indicate where different system infrastructure components should be categorized. It is not an exhaustive list of eligible examples.

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1           **5. Wastewater System Funding Source Data Field Entry Guidelines (Optional Regional**  
2           **Field)**

3           Wastewater system support for the maintenance and operation is crucial for the service  
4           population to receive the maximal public health benefit from EPA's water infrastructure  
5           investments. The categories listed below enables the user to categorize the source of funding.  
6           Categorization of funding source provides a method to easily identify trends in project award,  
7           as well as retrospective analysis of post award performance. Information contained within this  
8           field will also help EPA target the appropriate party for managerial and financial capacity  
9           training to support system viability.

10

11           **Wastewater System Funding Source**

- 12           • User fees
- 13           • Tribal Government General Fund
- 14           • Tribal Economic Enterprises
- 15           • Federal Government
- 16           • Other

17

1 *Appendix G. Project Types/Infrastructure*  
2 *Categories*  
3

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1 *Excerpt from CWISA Data Guidelines (March 2012)*

2

<b>Clean Water Indian Set Aside</b>	
<b>Project Infrastructure Categories<sup>1</sup></b>	
<b>Project Infrastructure Category</b>	<b>Description</b>
<b>Planning</b>	Engineering Project Report that includes: executive summary, background narrative, preliminary design description, alternative considered and recommended solution, permits required, O&M requirements, environmental considerations, and project cost estimate.
<b>Design</b>	Construction project plans and budget
<b>Wastewater Treatment Plant</b>	Screens, grit removal, clarifiers, sludge pumps, aeration, blowers, trickling filters, batch reactors, biological reactors, digesters, recirculating pumps, chemical feed, filtration, chlorination, dechlorination, UV disinfection, dewatering, biosolids management, nutrient removal, constructed wetlands, and sludge disposal
<b>Wastewater Lagoon</b>	Wastewater treatment lagoons, aeration basins and ponds, aerators, and sludge disposal
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<b>Other</b>	Laboratory capital costs for labs owned by the system, asset management software/program, computer and automation cost (SCADA), pump controls/telemetry, emergency power, security fencing, security other physical (lights, wall, manhole locks, other locks), security electronic/cyber (computer firewall, closed circuit TV), security monitoring tools (identify anomalies in process streams or finished water), flow meters, generators, & utility shop maintenance materials.

3 <sup>1</sup>Select categories adapted from professional technical knowledge and the Clean Watersheds Needs  
 4 Survey. Items listed for each description are intended to indicate where different system infrastructure  
 5 components should be categorized. It is not an exhaustive list of eligible examples.



**Appendix H**  
**Grant Management and Oversight Requirements**

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Grants through the CWISA program are subject to assistance agreement regulations, Office of Management and Budget (OMB) cost principles, the Cash Management Improvement Act, and Agency policies. Grants must be awarded and managed as any other assistance agreement. The Office of Grants and Debarment (OGD) has developed Orders, Grants Policy Issuances (GPIs) and directives to assist project officers and program offices in fulfilling and understanding their responsibilities (available at <http://intranet.epa.gov/ogd/policy/policy.htm>). Several grant requirements are discussed in further detail below.

Orders, Policies, and Directives	Overview
EPA Order 5700.7, <i>Environmental Results Under Assistance Agreements</i>	<p>The Order applies to funding packages to the Grants Management Office after January 1, 2005, and requires EPA Program Offices to:</p> <ol style="list-style-type: none"> <li>1) Link proposed assistance agreements to the Agency's Strategic Plan/Government Performance and Results Act (GPRA) architecture;</li> <li>2) Ensure that outputs and outcomes are appropriately addressed in assistance agreement work plans and funding recommendations; and</li> <li>3) Ensure that progress in achieving agreed-upon outputs and outcomes is adequately addressed in grantee progress reports and advanced monitoring activities.</li> </ol>
OGD policy memorandum GPI 00-02, <i>Pre-Award Costs</i> , and 2 CFR 225	<p>Applies to all grants awarded on or after April 1, 2000 and addresses EPA's revised interpretation of a provision in the general grant regulations at 40 CFR 31.23(a) concerning the approval of pre-award costs.</p> <p>Addresses EPA's interpretation of a provision in the general grant regulations at 40 CFR 31.23(a) allowing up to 90 days of preaward costs.</p> <ul style="list-style-type: none"> <li>• Recipients may incur pre-award costs [up to] 90 calendar days prior to the award date provided they include such costs in their application, the costs meet the definition of pre-award costs and are approved by the EPA Project Officer and EPA Award Official.</li> <li>• The award official can approve pre-award costs incurred more than 90 calendar days prior to the grant award date, in appropriate circumstances, if the pre-award costs are in conformance with the requirements set forth in 2 CFR 225 (supersedes OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments) and with applicable Agency regulations, policies and guidelines.</li> </ul> <p>If otherwise consistent with the coverage of 2 CFR 225, the following two situations may meet the requirements at Appendix B 31. Pre-award costs:</p> <ul style="list-style-type: none"> <li>• Any allowable costs incurred after the start of the fiscal year for which the funds were appropriated but before grant award (i.e. for a FY 2010 project, this date is October 1, 2009).</li> <li>• Allowable facilities planning and design costs associated with the construction portions of the project included in the grant that were incurred before the start of the fiscal year for which the funds were appropriated (i.e. for a FY 2010 project, this date is October 1, 2009).</li> </ul>

Orders, Policies, and Directives	Overview
OMB Circular A-16, which incorporates Executive Order 12906 and the One-Stop Geospatial E-gov Initiative	Project officer must indicate in the funding recommendations for a proposed assistance agreement that the grant involves or relates to the creation, collection, or analysis of geospatial information.
OGD Cost Review Guidance	GPI's 00-05 & 08-04 require EPA staff to review all elements of cost for all funding packages. Cost review checklists are available at <a href="http://intranet.epa.gov/ogd/cost_review/main/index.htm">http://intranet.epa.gov/ogd/cost_review/main/index.htm</a> .
EPA Order 5700.6A2, <i>Policy on Compliance, Review, and Monitoring</i>	Streamlines post-award management of assistance agreements and helps ensure effective oversight of recipient performance and management. Requires EPA project office to develop and carry out post-award monitoring plan, and conduct annual baseline monitoring or the equivalent for every award.
OGD directives to project officers	Grants will be managed according to the EPA Project Officer Manual ( <a href="http://intranet.epa.gov/OGD/project_officer_manual6/">http://intranet.epa.gov/OGD/project_officer_manual6/</a> ) and directives listed at <a href="http://intranet.epa.gov/OGD/policy/policy.htm">http://intranet.epa.gov/OGD/policy/policy.htm</a>
OGD policy memorandum GPI 08-05, <i>Guidance regarding Grants Management and the Management of Interagency Agreements under the Performance Appraisal and Recognition System (PARS)</i> Office of Human Resources (OHR) PARS policy documents	For consideration in assessing grants project officer and supervisor/manager compliance with key grants management policies under the PARS process, developing PARS performance agreements, and conducting mid-year and end-of-year performance reviews. <a href="http://intranet.epa.gov/policy/pars/index.htm">http://intranet.epa.gov/policy/pars/index.htm</a>
"Place of performance" requirement	For most projects, the geographic information needed includes the NPDES or SDWIS number(s). For those without these identification numbers, the latitude and longitude of the project should be provided.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN 12 2012

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**MEMORANDUM**

**SUBJECT:** Clean Water Indian Set-Aside Grant Program and the National Environmental Policy Act (NEPA)

**FROM:** Susan E. Bromm, Director  
Office of Federal Activities *Susan E. Bromm*

**TO:** James A. Hanlon, Director  
Randy Hill, Deputy Director  
Office of Wastewater Management  
Office of Water

This memorandum is intended to clarify EPA's responsibilities under the National Environmental Policy Act (NEPA) for grants to eligible tribes issued under Section 518(c) of the Clean Water Act (CWA) through the Clean Water Indian Set-Aside (CWISA) Grant Program. CWISA grants may be issued directly from EPA to an eligible tribe or through an Interagency Agreement (IA)<sup>1</sup> with the Indian Health Service (IHS).

Where EPA transfers funds to IHS to administer grants for tribal wastewater construction projects through an IA<sup>2</sup>, IHS is responsible for complying with any applicable Federal requirements, including NEPA, subject to its statutory authorities, regulations, and guidance for the subsequent funded wastewater construction projects.

In contrast, EPA's issuance of a direct grant to an eligible tribe is not subject to NEPA pursuant to a general exemption under Section 511(c) of the CWA<sup>3</sup>. Therefore, no NEPA review is required for EPA's issuance of a direct CWISA grant to an eligible tribe. However, under appropriate circumstances, a NEPA document may be prepared pursuant to EPA's "Policy and

<sup>1</sup> All CWISA IAs with IHS are processed through the Interagency Shared Service Center – West in Seattle, Washington.

<sup>2</sup> EPA's action of transferring funds to IHS through an IA is an administrative action eligible for a non-documentable categorical exclusion (CE) under EPA's NEPA Implementing Regulations (40 CFR 6.204(a)(2)(ii))

<sup>3</sup> Historically, EPA performed NEPA reviews on these actions as required by Section 602(b) of the CWA that applies only to clean water projects "constructed in whole or in part before fiscal year 1995..." However, any directly funded CWISA projects constructed in whole or in part after fiscal year 1995 are statutorily exempt from NEPA pursuant to Section 511(c) of the Clean Water Act (CWA).

Procedures for Voluntary Preparation of National Environmental Policy Act (NEPA) Documents.”<sup>4</sup> Voluntary NEPA documentation can be particularly useful in situations where other federal agencies are preparing NEPA documentation for related actions, where NEPA’s well-understood and long-standing procedures provide an opportunity for increased public involvement, and where the NEPA process can facilitate analysis of environmental impacts.

Under the Policy, EPA will prepare an EA or, if appropriate, an EIS on a case-by case basis in connection with Agency decisions where the Agency determines that such an analysis would be beneficial. Among the criteria that may be considered in making such a determination are: (a) the potential for improved coordination with other federal agencies taking related actions; (b) the potential for using an EA or EIS to comprehensively address large-scale ecological impacts, particularly cumulative effects; (c) the potential for using an EA or an EIS to facilitate analysis of environmental justice issues; (d) the potential for using an EA or EIS to expand public involvement and to address controversial issues; and (e) the potential of using an EA or EIS to address impacts on special resources or public health.

Please feel free to contact me at (202) 564-5400, or have your staff contact Jessica Trice, at (202) 564-6646, if you have any questions.

---

<sup>4</sup> Policy and Procedures for Voluntary Preparation of National Environmental Policy Act (NEPA) Documents, 63 Fed. Reg. 58045 (1998). <<http://www.gpo.gov/fdsys/pkg/FR-1998-10-29/pdf/98-29019.pdf>>



**Interagency Agreement between the  
U.S. Environmental Protection Agency and the Indian Health Service  
for [Tribal Drinking Water Facilities] Construction**

**I. ADMINISTRATIVE TERMS AND CONDITIONS**

This Interagency Agreement (IA) provides for the coordination between the Environmental Protection Agency (EPA) Region [ ] Drinking Water Infrastructure Grants – Tribal Set Aside (DWIG-TSA) Program and the Indian Health Service (IHS) Sanitation Facilities Construction Program. This IA applies to funds appropriated to the EPA under section 1452(i) of the Safe Drinking Water Act, which the EPA intends to transfer to the IHS under this IA.

If the actual cost of providing the facilities is less than the amount in the Project Documents, the IHS Area Office and the EPA Region, in consultation with the Tribe, will coordinate the disposition of the remaining funds. The parties may decide to increase the scope or identify another project for funding, or the IHS may return the unused funds to the EPA. Any project changes agreed to by the parties must be reflected in the IA through an amendment prior to expiration of the IA and before allocating funds to a new project, unless the IHS decides to return the funds to the EPA. If the parties cannot come to agreement, the IHS will return the funds to the EPA.

Funds transferred by EPA to the IHS under this IA may only be used in agreements authorized by Indian Sanitation Facilities Act, 42 U.S.C. 2004a.

The IHS is approved to purchase equipment in accordance with its equipment management policies. The IHS will determine that the equipment is in the best interest of the government and is necessary for the performance of the projects under this IA. Disposition of the equipment will be subject to IHS equipment management policies or as specified in the Project Documents with no further accountability to EPA.

**A. Resolution of Disagreements**

Should disagreements arise on the interpretation of the provisions of this agreement or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement or interpretation is not reached within 30 days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

If a dispute related to funding remains unresolved for more than 30 calendar days after the parties have engaged in an escalation of the dispute, disputes will be resolved in accordance with instructions provided in the Treasury Financial Manual (TFM) Volume I, Part 2, Chapter 4700, Appendix 10, available at <http://www.fms.treas.gov/tfm/index.html>.

**B. Duration of Agreement and Termination Procedures**

This agreement shall continue in effect until IHS or EPA provides written notice of termination, or when a project (or projects) funded under this agreement are completed or are no longer needed for the purpose identified in the Project Documents. Any funds that are obligated up to and on the date of

1 termination will remain obligated to the project(s) identified in this agreement. Notice shall be given to  
2 the other party at least 60 days in advance of a termination date.

3  
4 As per section 4.3.2 of EPA's "Interagency Agreement Policies, Procedures, and Guidance Manual 2008"  
5 the total duration of the project period for an IA may not exceed 7 years unless

6 (1) there is statutory or regulatory authorization for a longer period, (2) a signed waiver from an EPA  
7 Director, Office of Grants & Debarment (OGD), or designee, granting an exception is obtained, or (3) in  
8 the case of an allocation (appropriation) transfer, a shorter period is mandated, i.e., 5 years. This  
9 durational limitation includes both the original period of performance and any extensions. The initial  
10 determination of the appropriate length of the project period should take this limitation into account.  
11 (For example, an IA between IHS and EPA normally has a 5-year term. The IA can be extended upon  
12 approval of the parties for up to two more years for a total IA term of 7-years. An IA cannot be  
13 extended beyond the 7-year limit unless a waiver is granted by the EPA Director, Office of Grants &  
14 Debarment.) To exceed the 7-year policy limitation, a waiver request must be submitted in writing by  
15 the appropriate EPA Senior Resource Official to OGD. The OGD Director, or designee, may approve  
16 waivers on a class or individual basis because of national security concerns, circumstances of unusual or  
17 compelling urgency, unique programmatic considerations, or because the waiver would be in the public  
18 interest.

19  
20 **C. Sufficient Progress**

21  
22 EPA expressly reserves the right to terminate the IA for failure to make sufficient progress so as to  
23 reasonably ensure completion of the project within the project period (as defined in Section I.B.),  
24 including any extensions. EPA will measure sufficient progress by examining the performance required  
25 under the Statement of Work, the time remaining for performance, and/or the availability of funds  
26 necessary to complete performance. Prior to exercising this right to terminate, EPA will follow the  
27 resolution procedures cited Section I.A.

28  
29 **D. Cost Collection upon Cancellation**

30  
31 If the EPA cancels the order, the IHS is authorized to collect costs incurred prior to cancellation of the  
32 order plus termination costs, up to the total payment amount provided for under the agreement.

33  
34 **E. IAs with Contracts or Procurement**

35  
36 The IHS will use its administrative policies and procedures including those under the Buy Indian Act  
37 provisions for direct federal acquisition, to implement and execute projects funded under this IA.

38  
39 **F. Fiscal and Project Reporting Requirements**

40  
41 The IHS will update its Sanitation Tracking and Reporting System (STARS) quarterly and provide a report  
42 in STARS that may be accessed by the EPA. The report will include at minimum, project-specific  
43 estimated expenditures and actual milestones achieved to date and will be available to the respective  
44 EPA Regional DWIG Program Coordinator and to the EPA Financial Management Center. The STARS will  
45 be updated by the 30th day following the end of a quarter, beginning with the first full reporting period  
46 after funds are received by the IHS.

1 **G. Audit Findings**  
2

3 If an audit determines that any direct or indirect costs in a project funded under this IA are unallowable,  
4 the parties to this IA will be notified immediately following resolution of the audit and the IHS project  
5 account will be credited for ineligible costs.  
6

7 **II. PROGRAMMATIC TERMS AND CONDITIONS**  
8

9 **A. Authority and Purpose**  
10

11 The activities under this IA are being executed by the EPA pursuant to the Safe Drinking Water Act  
12 section 1450 (b), 42 USC 300j-9(b) and 1452(i), 42 USC 300j-12(i). The services and facilities will be  
13 provided to the Tribe by the IHS under the Transfer Act, 42 U.S.C. 2001; Indian Sanitation Facilities Act,  
14 42 U.S.C. 2004a; and Title III of Indian Health Care Improvement Act, as amended, 25 U.S.C. 1632.  
15

16 **B. EPA Responsibilities**  
17

18 1. The EPA Regional Office shall designate a representative to coordinate its participation in  
19 projects (Regional Program Coordinator). This representative shall formally advise the respective IHS  
20 Area Office of this designation.  
21

22 2. As resources permit the EPA shall provide to the IHS and Tribes technical assistance as needed  
23 to successfully meet applicable program requirements.  
24

25 3. The EPA Regional Office will ensure that the proposed projects are in accordance with the Safe  
26 Drinking Water Act, annual national guidance and the Drinking Water Infrastructure Grants Tribal Set-  
27 Aside Program Final Guidelines October 1998 and the Addendums.  
28

29 4. EPA Regional Office will ensure that water collection and analysis methodologies (as applicable)  
30 are in accordance with the IHS/EPA jointly developed Quality Assurance Project Plan (QAPP).  
31

32 5. EPA is responsible for any distribution within the EPA of the final technical and financial report  
33 provided to the respective EPA Regional Program Coordinator after the construction phase completion.  
34

35 6. The EPA will not be a signatory on any Project Summaries or Memorandums of Agreement.  
36

37 7. Where appropriate, EPA Regions shall provide comments to IHS Area Offices on the design and  
38 planning documents associated with projects funded by the IA within 30 days of receiving said  
39 documents.  
40

41 8. EPA Regions shall monitor construction progress with: data from the IHS database, discussions  
42 with the IHS Area Offices and field site visits as necessary to ensure the level of expended funds is  
43 reasonable given the reported milestone dates. The EPA will consult with the IHS Area Office quarterly  
44 to discuss project status.  
45

46 9. The EPA Regions will participate in the final project inspection, as deemed necessary and  
47 resources permitting. At project completion, the EPA Region will review the final technical and financial  
48 reports provided by the IHS Area Office and will initiate the necessary EPA close-out process.

1  
2 10. The EPA Regions will acknowledge and respond to IHS Area invitations to participate in project  
3 activities within 10 days of receipt.

4  
5 **C. IHS Responsibilities**  
6

7 1. The IHS shall implement and execute projects funded under this IA using its administrative  
8 policies and procedures as described in the Indian Health Manual, Part 5, Chapter 2, Memorandum of  
9 Agreement.

10  
11 2. Project Documents (Project Summary/ Memorandum of Agreement or Arrangements as  
12 described in 42 U.S.C. 2004a) will be developed by the IHS Area Office, in consultation with the  
13 respective Tribes and respective EPA Regional Office.

14  
15 3. Unless otherwise stipulated in the project documents, the IHS shall be the lead agency in  
16 assuring compliance with the National Environmental Policy Act (NEPA), the National Historic  
17 Preservation Act (NHPA), and other applicable Federal requirements only if the EPA funds are deposited  
18 in the IHS financial system (UFMS).

19  
20 4. Quarterly progress reports will be available to EPA through the IHS STARS system as stated in  
21 I.F., Fiscal and Project Reporting Requirements. Should the need arise and if the agencies mutually  
22 agree, the report may be supplemented.

23  
24 5. The EPA Regional Office shall be formally notified of and invited to participate in the conceptual  
25 design meeting, the final plans and specification review, and the final inspections for projects in which  
26 EPA funds are utilized. IHS shall notify the EPA at least 30 business days prior to these events to allow  
27 optimal participation. Notification will be by e-mail.

28  
29 6. As applicable, upon completion of each project under this IA, all rights title and interest to the  
30 provided sanitation facilities shall be transferred to the Tribe or to a responsible entity identified by the  
31 Tribe in accordance with the Project Documents. Each respective IHS Area Office shall make such  
32 arrangements as they determine necessary for the ownership and operation and maintenance of the  
33 completed facilities.

34  
35 7. For each project funded under this IA, a final technical and financial report shall be provided no  
36 later than 365 days after construction phase completion to the respective EPA Regional Program  
37 Coordinator. Electronic copies of the report shall be provided to the EPA representatives identified  
38 above in Fiscal Reporting Requirements.

39  
40 8. The water sampling umbrella Water Sample Collection and Analysis Quality Assurance Project  
41 Plan (QAPP) for Tribal Drinking Water and Wastewater Infrastructure Projects, developed jointly  
42 between EPA and IHS, will be implemented by IHS as applicable.

43  
44 9. For an EPA funded project for a pilot water treatment study or for a specific hydraulic network  
45 model calibration, the IHS will prepare an individual project specific Quality Assurance Project Plan  
46 (QAPP) in accordance with EPA Guidance for Quality Assurance Project Plans (QA/G-5) (EPA 2001) which  
47 can be found at <http://www.epa.gov/QUALITY/qs-docs/r5-final.pdf>. The QAPP must be submitted for  
48 review and approval by the EPA OW QA Officer through the EPA IA Project Officer, who must approve

1 the Quality Assurance procedures or standards in writing. EPA will have 60 calendar days to approve the  
2 QAPP submitted by IHS, after that time the QAPP will be considered final.

3  
4 **10. Restrictions on FY13 Funding for Corporations with Unpaid Federal Tax Liabilities and Felony**  
5 **Convictions**

6  
7 This interagency agreement (IA) obligates and transfers or advances EPA funds appropriated under  
8 Public Law 113-6 (Department of Defense, Military Construction and Veterans Affairs, and Full-Year  
9 Continuing Appropriations Act, 2013) and Public Law 112-175 (Continuing Appropriations Resolution,  
10 2013). As a result, this IA is subject to the provisions contained in the Department of the Interior,  
11 Environment, and Related Agencies Appropriations Act, 2012, Public Law 112-74, Division E, Title IV,  
12 Sections 433 and 434, regarding unpaid federal tax liabilities and federal felony convictions.

13  
14 The IHS is also subject to the provisions of Division E, Sections 433 and 434 of the FY12 Appropriations  
15 Act, regarding federal felony convictions and unpaid federal tax liabilities, in accordance with  
16 Department of Health & Human Services Acquisition Policy Number 2012-03. IHS will forward to the  
17 EPA Award Official, within 45 days, any documentation supporting an award where a written  
18 determination was made by the agency debarring and suspending official that suspension or debarment  
19 was considered but is not necessary to protect the interests of the Government.