

MEMORANDUM

SUBJECT: Interim Implementation Guidelines for Clean Water Act Section 604(b) Water Quality Management Planning Grants for Fiscal Years 2022 through 2026

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TO: EPA Regional Water Division Directors
State Clean Water Act 604(b) Program Managers

1. Introduction

On November 15, 2021, President Biden signed the Bipartisan Infrastructure Law (BIL), P.L. 117-58), also known as the “Infrastructure Investment and Jobs Act of 2021 (IIJA), P.L. 117-58. The law’s investment in clean water is nothing short of transformational. It includes \$50 billion to the U.S. Environmental Protection Agency (EPA) to strengthen the nation’s drinking water and wastewater systems - the single largest investment in clean water that the federal government has ever made.

Between fiscal years (FY) 2022-2026, the BIL appropriates \$11.713 billion for Clean Water State Revolving Fund (CWSRF) capitalization grants and an additional \$1 billion for CWSRF grants to address emerging contaminants. Clean Water Act (CWA or “the Act”) Section 604(b) grants that support states’¹ water quality management planning efforts depend on CWSRF appropriations (calculated as 1% of the amount of CWSRF funds allotted to a state or \$100K if greater); the BIL significantly increases states’ section 604(b) allotments through FY26.

Section 604(b) Water Quality Management Planning (WQMP) grants are a modest, yet important complement to other sources of funding authorized by the CWA (e.g., section 319 and 106) and provide essential funding for states to undertake a wide range of activities that set them up for success in achieving clean water goals. These planning activities strengthen states’ abilities to:

- characterize and document the quality of waterbodies and pollution-related impacts on human health and the environment;
- develop strategies and plans to protect high-quality waters and restore degraded waters; and
- enhance collaboration among key watershed stakeholders.

¹ “States” means states, territories, and the District of Columbia.

This historic increase to section 604(b) funding provides an unprecedented opportunity for states to invigorate water quality planning programs. By dedicating substantially more resources to proactive planning efforts, states can have greater confidence that limited resources are being directed towards those activities that will yield the greatest clean water benefits and promote the overall effectiveness of CWA programs implementation. Additional funding provided by the BIL also affords states the opportunity to meet pressing, modern challenges head on by folding equity,² environmental justice (EJ),³ and climate considerations into planning efforts.

This memorandum provides interim guidelines regarding EPA’s award and administration of WQMP grants⁴ appropriated through the State and Tribal Assistance Grants (STAG) account. EPA intends to update/supplement these interim guidelines for out-years of BIL funding and/or for section 604(b) grants generally. WQMP grants are awarded under CWA section 205(j)(2), using funds reserved in section 604(b), and are commonly referred to as “604(b) funds.” This guidance complements the Agency’s long-standing section 604(b) guidance and does not limit the broad eligibilities in those guidance documents for the “base” or “regular” 604(b) allotments that states receive via annual appropriations for the CWSRF loan program.

States’ water quality management planning programs vary considerably with respect to: section 604(b) allotments (19 states received the minimum/near-minimum allotment of \$100K in FY21, while other states received \$500K-\$1.7M⁵); funding prioritization of eligible activities; and the availability of and engagement with planning organizations. Consequently, these guidelines aim to add clarity, satisfy statutory and regulatory requirements, and promote the advancement of equity and climate goals, while also affording states the flexibility to administer water quality management planning programs based on their unique circumstances and water quality challenges and goals. This memorandum is organized in the following manner:

- **Implementation Memorandum:** This memorandum reviews background information, key priorities, program requirements, and instructions for developing state workplans.
- **Appendix A: Fiscal Year 2022 Clean Water Act (CWA) 604(b) Grants to States and Territories by Appropriation.**
- **Appendix B: Recommended Questions for States to Address in FY 22 Equity and Climate Assessments.** This appendix provides a series of questions that states should answer when conducting equity and climates assessments using 604(b) BIL funds.

² “Equity” means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality ([EO 13985](#)).

³ “Environmental Justice” means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations, and policies ([EPA Equity Action Plan](#)).

⁴ WQMP grants are awarded under Federal Assistance Listing #66.454.

⁵ https://www.epa.gov/sites/default/files/2021-03/documents/2021_cwsrf_allotments.pdf

2. Section 604(b) Funding Levels and Award of Funds

For each fiscal year between 2022 and 2026, states' total 604(b) allotments will comprise approximately 1% (or \$100,000 if greater) of the total of three distinct CWSRF appropriations: (1) CWSRF base, (2) BIL supplemental, and (3) BIL emerging contaminants. Per the section 604(b) statute, the total of all CWSRF "sums allotted" to states are used to calculate 604(b) allotments, which now includes the supplemental BIL CWSRF appropriations. Resulting section 604(b) allotments may then be used for any activity eligible for funding under the statute. Total BIL CWSRF funding levels through FY26 are shown in Table 1 and state-by-state FY22 total section 604(b) allotments are listed in Appendix A of this document. Table 1 funding levels may be used to estimate out-year section 604(b) allotments; however, final BIL 604(b) allotments will be published annually with final BIL CWSRF allotments.

Table 1: BIL CWSRF Funding Levels FY22-26

FY	CWSRF BIL Supplemental Appropriation (\$)	CWSRF BIL Emerging Contaminants (\$)
22	1,902,000,000	100,000,000
23	2,202,000,000	225,000,000
24	2,403,000,000	225,000,000
25	2,603,000,000	225,000,000
26	2,603,000,000	225,000,000

A. Single Grant Awards with Multiple Appropriations

EPA has determined that 604(b) funds stemming from BIL CWSRF appropriations are legally available for the same types of activities funded by 604(b) allotments stemming from CWSRF base appropriations. EPA Regions are expected to award all 604(b) funds (base and BIL) to states via single, multiple appropriation or "split funding" grant actions in accordance with EPA policies and procedures established by the Office of the Chief Financial Officer and Office of Grants and Debarment, in coordination with the Office of General Counsel. Separate workplans are not required for each respective allotment. Regions may establish multi-year grants using anticipated BIL 604(b) funding levels based on BIL CWSRF appropriations (see Table 1) and then fund grants incrementally with 604(b) base allotments when they become available each year. All 604(b) grant awards will utilize a single program code, but different accounting codes for each allotment stemming from the respective appropriations noted above. EPA's Office of Wetlands, Oceans and Watersheds has obtained a class waiver, applicable to all section 604(b) grants, from the general EPA policy that limits the mixing of multiple appropriations in single grant actions. Therefore, Regions will not be required to seek separate, additional approvals prior to making single, split funding awards to states. However, BIL 604(b) funds are to be tracked separately from base 604(b) funds using the proportional drawdown and benefits estimation methodology explained in Section 7 of this document.

State match requirements in the BIL applicable to CWSRF capitalization grants do not apply to 604(b) funds.

Final FY22 base appropriations for the CWSRF resulted in a total national base 604(b) allotment of \$11,708,000, a 29 percent reduction from FY21 funding levels. When developing single grant 604(b) workplans for FY22, states may consider using the additional 604(b) funds provided by BIL to support

activities identified in FY21 workplans that were planned to continue in FY22 but will be impacted by the reductions to 604(b) base allotments. Remaining 604(b) funds may be used by states to undertake additional eligible activities recommended in these guidelines.

3. General Background

Under section 604(b), approximately 1% of each state's CWSRF grant amount (or \$100K if greater) is set aside "to carry out planning under sections 205(j) and 303(e)" of the CWA. Water quality management planning is undertaken jointly by states, regional public comprehensive planning organizations (RPCPOs) and appropriate interstate organizations (IOs) to determine the nature and extent of point and nonpoint source water pollution and to develop Water Quality Management (WQM) plans that support and inform implementation of a range of CWA programs. The regulations at 40 CFR 130 establish policies and program requirements for water quality planning, management, and implementation under CWA sections 106, 205(j), 205(g), 208, 303, and 305 and provide the authority for a consistent national approach for maintaining, improving, and protecting water quality while allowing states to implement the most effective individual programs.

The BIL does not statutorily alter sections 604(b), 205(j), or 303(e). Previous section 604(b) EPA regulations and guidance remain relevant.

Clean Water Act 604(b) Guidance

- [Guidance for Management of Section 205\(j\)\(1\) and 604\(b\) Funds During Fiscal Years 1988-1990 \(pdf\)](#) (August 1987)
 - Explains how CWA 1987 amendments modified §205(j) provisions, including introduction of the passthrough requirement; discusses grant management processes, workplan development, and oversight.
- [FY1995/96 Sections 106/604\(b\) Eligibility, Negotiation, Award, and Oversight Guidance \(pdf\)](#) (March 1994)
 - Emphasizes complimentary nature of section 604(b) and section 106 and explains differences between the two funding sources; encourages states to adopt "watershed protection approaches"; provides detailed examples of eligible activities under sections 604(b), 106, and 319; discusses workplan requirements, general grant award and management processes, and oversight.
- [Award of Water Quality Management Planning Grants with Funds Appropriated by ARRA \(2009\) \(pdf\)](#) (March 2009)
 - Focuses on America Recovery and Reinvestment Act (ARRA) 604(b) funds; discusses ARRA statutory requirements for planning priorities (green infrastructure, water efficiency, and climate change), reporting and funds tracking, and passthrough; includes Frequently Asked Questions (FAQ) for ARRA 604(b) funds and 604(b) funds broadly.

4. Passthrough Requirement for BIL 604(b) Funds

Under section 205(j)(3), states are required to develop jointly with RPCPOs or IOs workplans (or “work programs”) for the use of 604(b) grants. Based on these joint workplans, states are required to provide at least 40% of 604(b) funds to such RPCPOs/IOs, unless a waiver request submitted by the Governor⁶ is approved by EPA. Working with RPCPOs/IOs provides an important opportunity for states to engage local communities in focused water quality planning. The BIL does not alter the passthrough requirement; it applies to all 604(b) funds regardless of appropriation.

States should consider the extent to which RPCPOs/IOs will use passed through funds to address the public health and environmental concerns of disadvantaged and underserved communities and identify future actions to advance priority goals relating to equity and EJ and climate. Subawards to additional recipients may be made with the remaining 604(b) funds in accordance with federal grant regulations.

A. Exemptions from the Passthrough Requirement

Governors seeking a waiver from the passthrough requirement will need to consult with eligible organizations and assure that section 205(j)(3) statutory predicates are met. While state-specific circumstances may clearly merit seeking a waiver (e.g., absence of RPCPOs/IOs), given this historic funding opportunity, states are strongly encouraged to make earnest efforts to engage with and give priority funding to RPCPOs/IOs. Governors seeking a waiver should document:

- (1) efforts made to contact and consult with eligible organizations, and
- (2) the specific factual basis underlying a determination that allocation of funds to such organizations will not result in significant participation in water quality management planning and not significantly assist in the development and implementation of the State's water quality management plan.

Further, considering the additional 604(b) funds provided by BIL, EPA strongly encourages any Governors seeking a waiver to document:⁷

- Why the above determination holds true under an increased BIL funding scenario;
- Specific efforts made to identify and engage eligible organizations with equity and/or climate expertise; and
- Future actions that could be taken to engage such organizations.

5. Eligible Activities

CWA sections 205(j)(2) and 303(e) and EPA 604(b) guidance documents list a broad range of planning activities that may be funded from the §604(b) reserve, including the following:

- conducting ambient monitoring;
- developing, revising, and reviewing water quality standards;
- developing lists of impaired waters as required under section 303(d) and developing Total Maximum Daily Loads (TMDLs);

⁶ Some states may have established delegations of authority laws and processes in place; others may not. If a state does have an established delegation chain, EPA may be able to accept waiver requests from appropriate designees.

⁷ This additional information specific to BIL funds may be transmitted in the same letter used for non-BIL 604(b) waiver requests.

- updating water quality management plans in accordance with 40 CFR 130.6;
- developing continuing planning processes (CPPs) as required under section 303(e)(2);
- preparing water quality inventories as required under section 305(b), developing other restoration and protection plans, and supporting water quality program planning and development.

Per 40 CFR 130.11(b), 604(b) funds may not be used to fund implementation of control measures (e.g., inspections, enforcement, installing best management practices). A thorough discussion of eligible activities can be found in EPA’s [FY1995/96 Sections 106/604\(b\) Eligibility, Negotiation, Award and Oversight Guidance](#), Appendix A and Appendix A Matrix.

The BIL does not statutorily alter the eligibility of activities funded with section 604(b) funds, and the full historic range of activities remains eligible. State water quality planning efforts should focus on priority issues and geographic areas and on the development of water quality controls leading to point and nonpoint source implementation measures aimed at both the protection of high-quality waters and restoration of degraded waters. This document also provides examples of specific eligible activities that promote advancement of equity and climate goals. Other potentially eligible activities may be evaluated on a case-by-case basis; states should work with EPA as appropriate to explore the eligibility of actions proposed in workplans.

6. Targeting 604(b) Funds Towards Equity and Climate

Environmental justice and addressing climate change are key EPA priorities reflected in the Agency’s [FY 2022–2026 EPA Strategic Plan](#), which provides the framework for EPA to integrate EJ considerations into its programs, plans, and actions, and to ensure equitable and fair access to the benefits from environmental programs for all individuals. Consistent with Executive Order 14008 Section 223, Tackling the Climate Crisis at Home and Abroad, the Justice40 Initiative, and Office of Management and Budget’s (OMB) [Interim Implementation Guidance for the Justice40 Initiative](#), the Strategic Plan’s goals are to: “Tackle the Climate Crisis” by reducing emissions that cause climate change and accelerating resilience and adaptation to climate change impacts; and “Take Decisive Action to Advance Environmental Justice and Civil Rights” by promoting EJ and protecting civil rights at the federal, state, and local levels. EPA is also embedding these goals in its programs, policies, and activities, including the implementation of the BIL. As contributors to these goals, states are encouraged to target funds, including BIL funds towards equity and climate where possible and appropriate.

Climate change impacts, such as sea level rise, extreme weather events, flooding, and coastal acidification, are critical concerns for communities and ecosystems. These impacts are deeply intertwined with EJ and equity, as disadvantaged, underserved, or overburdened communities are disproportionately affected and often have inadequate resources to adapt to or mitigate these stressors. The states have been at the forefront of efforts to address climate change impacts in their watersheds for many years, working with federal, inter-state, and local partners. Partnerships built around engaging, convening, collaborating with, providing technical and financial assistance to, and educating the public and private sectors are vital to EPA’s goal of accelerating progress in response to a changing climate.

Every state in America has disadvantaged, underserved, or overburdened communities – rural, urban, suburban – that have deeply rooted water challenges, whether it is too much, too little, lack of access, or poor-quality water. Many of these communities have benefitted unevenly from federal water

infrastructure and planning funding. EPA further recognizes that water quality and climate impacts can disproportionately affect urban and rural communities that are predominately of color, indigenous, linguistically isolated, low-income, and/or impacted by other stressors. Through EPA's grant programs, including those that received supplemental appropriations through the BIL, states have an unprecedented opportunity to correct this disparity by strengthening and modernizing planning programs in order to better serve both current and future generations of Americans. In recent EPA listening sessions regarding equity, states have identified the need to build capacity in disadvantaged, underserved, and overburdened communities as a key foundation to equitable implementation of water programs.

A. Defining and Identifying Disadvantaged Communities

EPA has created agency-specific Justice40 Interim Disadvantaged Communities Indices that states may reference as they define/identify disadvantaged communities for the purposes of conducting the assessments described in Section 6.B, given that there is not a program-specific definition. The Justice40 Interim Disadvantaged Communities Indices use the [EJScreen methodology](#) for creating these scores, but replace the current demographic index with a new five-factor demographic index.

The five demographic indicators that are considered in the scores are:

- percent low-income,
- percent linguistically isolated,
- percent less than high school education,
- percent unemployed, and
- low life expectancy.

The demographic data can be combined with the [EJScreen Environmental Indicators](#) to map the intersection of these demographic factors and potential pollution. The Justice40 Interim Disadvantaged Communities Indices can be used to highlight areas where vulnerable populations may be disproportionately impacted by pollution. The maps can show areas above the 80th, 90th, and 95th percentiles of these Justice40 Interim Disadvantaged Communities Indices when compared to the state or the nation.

EPA is currently working to share the Justice40 Interim Disadvantaged Communities Indices with the public as soon as possible. EPA plans to host this information on a public webpage in the coming weeks, and to incorporate the Justice40 Interim Disadvantaged Communities Indices into the public version of EJScreen during the next update of the tool. This is tentatively scheduled to take place in summer of 2022.

The Justice40 Interim Disadvantaged Communities Indices will not replace the current EJ indexes. EPA will include both the EJ indexes, currently in the tool, and the Justice40 Interim Disadvantaged Communities Indices so they are clearly distinguishable and available for analysis and comparison.

States may also reference other available definitions and/or tools to identify disadvantaged communities, including those already used in specific states. EPA will also provide support to states considering alternative approaches for defining and identifying disadvantaged communities.

B. Equity, Environmental Justice and Climate Assessments to Inform FY23-26 Workplans

States should use 604(b) funds to conduct assessments related to equity and climate noted below and develop a plan for specific actions to be undertaken in subsequent years (FY23-26). These assessments may be completed as standalone deliverables or may be folded into annual grant workplans as appropriate. All state workplans submitted for FY22 604(b) funds should describe states' approaches to conduct the assessments noted below. All state workplans submitted for FY23 604(b) funds should include the outcomes of the assessments. All state workplans submitted for FY23-26 should include specific activities that will be undertaken each year that were identified in these assessments or reflect evolving equity and climate priorities.⁸ If states are able to adequately document in FY22 workplans submitted to EPA Regions that they have already made sufficient efforts to consider equity and climate in water quality management planning activities, such states may, with Regional concurrence, forego using FY22 604(b) funds to conduct these assessments and focus on implementing already-identified actions. States with relatively greater 604(b) allotments and states that have already begun to address equity/EJ and climate in their planning activities and water programs should undertake eligible activities using FY22 allotments that advance equity/EJ and/or climate goals.

Appendix B of this document includes example climate and equity assessment questions. The example questions are intended to facilitate thinking and are not new funding application requirements. As specific eligible activities are prioritized for 604(b) funding during workplan development, Regions, states, and RPCPOs/IOs should consider their unique challenges and opportunities related to climate and equity.

i. Equity and Environmental Justice Assessment

States should use 604(b) funds to assess the extent to which their water quality management planning activities and programs benefit disadvantaged communities; determine whether institutional barriers exist that prevent these communities from accessing water program benefits; and identify actions that could enhance the delivery of CWA programs and benefits to disadvantaged communities. EPA encourages states that have already developed a plan to enhance the delivery of water program benefits to disadvantaged communities to use this funding for eligible activities that support that plan.

a. Enhancing Disadvantaged Communities' Access to CWSRF Funding

It is an EPA priority to ensure communities that have historically struggled to access CWSRF funding are prioritized. EPA encourages states to prioritize the distribution of grant funds to disadvantaged communities. To this end, states are encouraged to use, as appropriate, 604(b) funds to conduct assessments and make any necessary modifications to their underlying state revolving fund (SRF) programs and/or conduct planning leading to capacity building at the state level that enhances disadvantaged communities' access to infrastructure funding and their ability to participate in water quality management projects that impact public health and the environment. Such assessments may be folded into the equity assessments noted above. For additional information, see EPA's [*Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law*](#).

⁸ While FY22 assessments should inform strategic planning and workplan development over the life of BIL funding, states may adapt equity and climate priorities in annual workplans based on evolving goals.

ii. Climate Assessment

States should assess the extent to which their water quality management planning activities and programs consider climate mitigation, adaptation, and resilience and identify actions to advance climate goals through water quality planning that informs program implementation.

This may entail consideration of how state water programs (and planning supporting such programs) anticipate and prepare for climate-related impacts and disasters (e.g., wildfires, extreme heat, droughts, floods⁹, sea level rise, declining groundwater tables, higher water temperature, loss of habitat, storm surge, changing waterflows and resulting concentrations of contaminants/ions, and melting permafrost); identification of water quality actions that can also yield climate resiliency co-benefits (e.g., nature-based solutions for natural hazard mitigation); and ensuring that infrastructure and other water program investments increase resilience to climate change.

a. Additional Examples of Actions that Further Equity and Climate Goals

OMB's *Interim Implementation Guidance for the Justice40 Initiative* "Examples of Covered Programs" section provides examples of investment and program outcomes that "positively impact disadvantaged communities" (pg. 4). In the "Climate" category, OMB notes the following example benefits for disadvantaged communities:

- Reduction of greenhouse gas (GHG) emissions
- Creation of community resilience plans that specifically include addressing needs of disadvantaged communities
- Increased technical assistance and community engagement of disadvantaged communities
- Increased flood mitigation benefits (e.g., green stormwater infrastructure, floodplain, and wetland restoration)

7. Documentation, Reporting, and Expenditure BIL 604(b) Funds

A. General BIL Funds Requirements

States and Regions are to ensure that BIL funds can always be tracked to the underlying appropriation in the law and must be prepared to report on the purpose of all obligations. There must always be a clear line from the work performed to the purpose of the law and the program being charged to. EPA establishes codes to track BIL funding for this reason. The established coding schema must be used to track all BIL funds. With no exception, BIL funds may not be "tapped" for broader needs outside those specifically covered in the law. Regions must include the following special programmatic term and condition in FY22-26 604(b) grants relating to separately tracking and reporting on BIL expenditures and activities funded by BIL appropriations:

⁹ Executive Order (EO) 14030, *Climate-Related Financial Risk*, reinstating EO 13690, *Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input* (January 30, 2015) reestablishes the Federal Flood Risk Management Standard (FFRMS) for federally funded projects. The new standard will go into effect in FY22 for SRF capitalization grants (including BIL funding). FFRMS does not directly apply to 604(b) funds; it outlines steps that states should take to incorporate FFRMS elements into their infrastructure planning considerations and SRF decision-making.

EPA’s Award Official or Grants Management Officer may amend this agreement to specify additional requirements applicable to IIJA funding as information becomes available. In the interim, the recipient agrees to have financial management and programmatic management systems in place to:

- 1.) track IIJA and “regular” 604(b) funds separately using Agency-provided accounting codes and report separately on expenditures of IIJA funds.*
- 2.) track and report on outputs and outcomes achieved with IIJA funds: Outputs and outcomes associated with IIJA 604(b) appropriations will be estimated by examining the proportion of activities funded by IIJA relative to those funded by “regular” 604(b) allotments (see g. below).*
- 3.) states shall report to EPA Regions no less than annually (or more often as required by IIJA reporting requirements) on key project characteristics and milestone information, applying the proportional ratio to estimate those benefits resulting from IIJA-funded activities.*

B. 604(b) Funds Tracking, Drawdown, and Relative Benefits Estimation

As noted, all section 604(b) grants are to be awarded to states via single grant actions funded by multiple CWSRF appropriations. States must draw down grants proportionately using the ratio between the three distinct section 604(b) allotments: [604(b) Base: 604(b) BIL Supplemental: 604(b) BIL Emerging Contaminants]. For example, using Alabama’s FY22 allotments as shown in Appendix A as an example, the following ratio will be applied for funds drawdowns and benefits estimation:

Appropriation	604(b) Base	604(b) BIL Supplemental	604(b) BIL Emerging Contaminants
Alabama Allotment	\$131,000	\$201,000	\$11,000
Ratio	0.38	0.59	0.03

The same ratios will be applied when estimating and reporting the relative benefits associated with each respective allotment. This will ensure that proportional benefits associated with BIL 604(b) allotments can be tracked separately with respect to outputs and outcomes and goals, objectives, and subobjectives established in workplans in accordance with EPA’s Strategic Plan.

C. State Workplans for 604(b) Funds

The section 604(b) workplan is part of the grant application and serves as the basis for the management and evaluation of performance under the grant. While satisfying statutory requirements to develop workplans jointly with RPCPOs/IOs, states should work with Regions to develop strong workplans that address priority issues, including the priorities noted for equity/EJ and climate. Such workplans will position states well to accomplish important future work. As appropriate, states should reference and draw from other relevant plans, including Nonpoint Source Management Plans, state Hazard Mitigation Plans, Source Water Protection Plans, or other established plans.

States’ annual workplans are the primary vehicles for documenting activities undertaken with BIL 604(b) funds and allowing for future communication of impacts of BIL 604(b) funds on water quality

management planning activities, specifically with respect to advancement of equity/EJ and climate priorities. States should document the information below, in addition to routine reporting for 604(b) funds. For each year FY22 – FY26, BIL funds must be tracked separately.

In FY22 workplans, states must address existing grant regulations and policies. In addition, states should include:

- A listing of RPCPOs/IOs that BIL 604(b) funds are passed through to and the total amount of BIL 604(b) funds passed through to such entities.
 - This is a routine requirement for all section 604(b) workplans but will need to be tracked separately for BIL 604(b) funds. States should note if they have had passthrough waiver requests approved by EPA.
- Their approach for conducting the equity and climate assessments noted above.
- For states positioned to initiate or continue water quality management planning activities that support equity/EJ and climate goals, include documentation describing such activities.
- If applicable, any documentation pertaining to states' efforts to ensure that grant dollars reach disadvantaged communities (e.g., SRF program modifications to enhance disadvantaged communities' access to SRF funding, conducting planning activities that lead to capacity building to access infrastructure funding).

In FY23 workplans, in addition to routine requirements, states should provide:

- Findings from equity and climate assessments conducted with FY22 604(b) funds with identified actions to be incorporated into future planning activities, including the FY23 workplan.
- Any specific activities to enhance disadvantaged communities' access to SRF infrastructure funding.

In FY23-26 workplans, in addition to routine requirements, states should provide:

- Specific actions to advance climate and equity/EJ goals that were identified in assessments conducted with FY22 funding.

After the award of FY26 grants, states should provide:

- A final narrative, in addition to routine reporting requirements, that includes:
 - Total BIL §604(b) awards to states and amounts passed through to RPCPOs/IOs (unless waiver requests are applicable);
 - All actions taken (or expected to be taken) with FY22-26 BIL funding, specifically highlighting actions aimed at advancing equity and climate priorities;
 - Note percentage of 604(b) funds that prioritized or targeted benefits towards disadvantaged communities per assessments completed with FY22 funding.
 - Note the number of activities identified in assessments completed with FY22 funding that benefit disadvantaged communities and climate and how many were begun and/or completed.
 - The outcomes (or anticipated outcomes) of such activities on overall planning efforts and water program implementation;

- A discussion of how activities funded with BIL 604(b) funds: improved (or are expected to improve) disadvantaged and underserved communities' access to infrastructure funding and ability to participate in water quality projects impacting public health and the environment; improved (or are expected to improve) water quality planning programs or water programs generally with respect to climate adaptation, resilience, and/or mitigation.

EPA Regional offices should maintain in grant files all FY22-26 604(b) workplans and be prepared to transmit such workplans to Headquarters upon request.

8. Regional Oversight

In accordance with 40 CFR 35.115, Regions will oversee performance of 604(b)-funded assistance agreements. Oversight entails: evaluating progress towards completing the outputs identified in approved workplans; providing findings/feedback to each recipient; including findings in the grant file; and in cases where deficiencies are noted, developing an action plan to address performance problems. A description of the evaluation process and a reporting schedule must be included in the workplan (see 40 CFR 35.107(b)(2)(iv)). The schedule must require the recipient to report at least annually and must satisfy the requirements for progress reporting under 2 CFR 200.328 (40 CFR 35.115(a)). Regions should specifically evaluate draft workplans' documentation of efforts to advance equity and climate priorities with 604(b) funds and provide technical assistance as appropriate to states to support them in meeting the aims of this guidance. In any instance where a state fails to track or report on BIL expenditures or outputs and outcomes associated with BIL funded activities for any reporting period, Regions should promptly notify the state and obtain the needed information as soon as possible. Affected Regions should escalate common/repeated instances to the program office. The program office will periodically review recipient workplans and/or annual reports submitted to Regions to ensure that the information provided is consistent with the regulations at 40 CFR 35.115 and all reporting requirements specified by OMB.

9. Awards Declined by States

In the event that a state declines any portion of annual 604(b) funding (base and/or BIL), such unawarded funds will be made available for redistribution to other states. States considering declining 604(b) funds should note that any state not accepting its full CWSRF allotment, including 604(b) funds, within the first year of availability will not be eligible to accept unallotted and redistributed CWSRF funds (i.e., awards declined by other states) after the end of the second year of availability.

10. Fully Enforce Civil Rights

Under Title VI of the Civil Rights Act, EPA has a responsibility to ensure that federal funds are not being used to subsidize discrimination based on race, color, or national origin. This prohibition against discrimination under Title VI has been a statutory mandate since 1964, and EPA has had Title VI regulations since 1973. EPA's nondiscrimination regulations prohibit recipients of EPA financial assistance from taking actions in their programs or activities that are intentionally discriminatory and/or have a discriminatory effect based on race, color, national origin (including limited English proficiency), age, disability, or sex. EPA intends to carefully evaluate the implementation of CWA 604(b) funding to ensure compliance with civil rights laws. EPA will provide interested states with technical assistance and training to support their compliance with Title VI obligations.

EPA intends to carefully evaluate the implementation of EPA Water Quality Management Planning grants, to ensure compliance with civil rights laws by recipients of EPA funding and that no community is excluded from receiving or denied benefit of 604(b) funding based on race, color, national origin (including limited English proficiency), age, disability, or sex.

For more information about the federal civil rights laws enforced by EPA, including Title VI, please visit: <https://www.epa.gov/ocr/title-vi-laws-and-regulations> and <https://www.epa.gov/ogc/external-civil-rights-compliance-office-title-vi>.

Closing

EPA is committed to helping states and territories ensure these funds meet the needs of all communities—especially underserved communities that disproportionately experience our biggest water challenges. EPA will provide support to states and territories as they embrace this historic opportunity to vitalize water quality management planning efforts, more fully integrate climate mitigation, adaptation, and resilience considerations into planning activities, and enhance the delivery of Clean Water Act program benefits to disadvantaged communities.

Appendix A

Fiscal Year 2022 Clean Water Act (CWA) 604(b) Grants to States and Territories by Appropriation

State/Territory	604(b) Base	BIL 604(b) Supplemental	BIL 604(b) Emerging Contaminants	Total FY22 604(b) Allotment
Alabama	\$131,000	\$201,000	\$11,000	\$343,000
Alaska	\$70,000	\$108,000	\$6,000	\$184,000
Arizona	\$79,000	\$121,000	\$6,000	\$206,000
Arkansas	\$76,000	\$118,000	\$6,000	\$200,000
California	\$836,000	\$1,286,000	\$68,000	\$2,190,000
Colorado	\$93,000	\$144,000	\$8,000	\$245,000
Connecticut	\$143,000	\$220,000	\$12,000	\$375,000
Delaware	\$57,000	\$88,000	\$5,000	\$150,000
District of Columbia	\$57,000	\$88,000	\$5,000	\$150,000
Florida	\$395,000	\$607,000	\$32,000	\$1,034,000
Georgia	\$198,000	\$304,000	\$16,000	\$518,000
Hawaii	\$91,000	\$139,000	\$7,000	\$237,000
Idaho	\$57,000	\$88,000	\$5,000	\$150,000
Illinois	\$529,000	\$813,000	\$43,000	\$1,385,000
Indiana	\$282,000	\$433,000	\$23,000	\$738,000
Iowa	\$158,000	\$243,000	\$13,000	\$414,000
Kansas	\$106,000	\$162,000	\$9,000	\$277,000
Kentucky	\$149,000	\$229,000	\$12,000	\$390,000
Louisiana	\$128,000	\$198,000	\$10,000	\$336,000
Maine	\$90,000	\$139,000	\$7,000	\$236,000
Maryland	\$283,000	\$435,000	\$23,000	\$741,000
Massachusetts	\$397,000	\$610,000	\$32,000	\$1,039,000
Michigan	\$503,000	\$773,000	\$41,000	\$1,317,000
Minnesota	\$215,000	\$330,000	\$17,000	\$562,000
Mississippi	\$105,000	\$162,000	\$9,000	\$276,000
Missouri	\$324,000	\$498,000	\$26,000	\$848,000
Montana	\$57,000	\$88,000	\$5,000	\$150,000
Nebraska	\$60,000	\$92,000	\$5,000	\$157,000
Nevada	\$57,000	\$88,000	\$5,000	\$150,000
New Hampshire	\$117,000	\$180,000	\$9,000	\$306,000
New Jersey	\$478,000	\$735,000	\$39,000	\$1,252,000
New Mexico	\$57,000	\$88,000	\$5,000	\$150,000
New York	\$1,290,000	\$1,984,000	\$104,000	\$3,378,000
North Carolina	\$211,000	\$324,000	\$17,000	\$552,000
North Dakota	\$57,000	\$88,000	\$5,000	\$150,000
Ohio	\$658,000	\$1,012,000	\$53,000	\$1,723,000
Oklahoma	\$94,000	\$145,000	\$8,000	\$247,000
Oregon	\$132,000	\$203,000	\$11,000	\$346,000
Pennsylvania	\$463,000	\$712,000	\$37,000	\$1,212,000

Puerto Rico	\$152,000	\$234,000	\$12,000	\$398,000
Rhode Island	\$78,000	\$121,000	\$6,000	\$205,000
South Carolina	\$120,000	\$184,000	\$10,000	\$314,000
South Dakota	\$57,000	\$88,000	\$5,000	\$150,000
Tennessee	\$170,000	\$261,000	\$14,000	\$445,000
Texas	\$534,000	\$822,000	\$43,000	\$1,399,000
Utah	\$62,000	\$95,000	\$5,000	\$162,000
Vermont	\$57,000	\$88,000	\$5,000	\$150,000
Virginia	\$239,000	\$368,000	\$19,000	\$626,000
Washington	\$203,000	\$313,000	\$16,000	\$532,000
West Virginia	\$182,000	\$280,000	\$15,000	\$477,000
Wisconsin	\$316,000	\$486,000	\$26,000	\$828,000
Wyoming	\$57,000	\$88,000	\$5,000	\$150,000
States Total	\$11,510,000	\$17,704,000	\$936,000	\$30,150,000
American Samoa	\$63,000	\$101,000	\$5,000	\$169,000
Guam	\$46,000	\$73,000	\$4,000	\$123,000
Northern Marianas	\$51,000	\$47,000	\$2,000	\$100,000
Virgin Islands	\$38,000	\$59,000	\$3,000	\$100,000
Territories Total	\$198,000	\$280,000	\$14,000	\$492,000
Grand Total	\$11,708,000	\$17,984,000	\$950,000	\$30,642,000

Appendix B

Recommended Questions for States to Address in FY 22 Equity and Climate Assessments

Equity Questions

1. See Section 6.A. in the interim implantation guidelines. What data, indices screening tools and thresholds will your state use to define Disadvantaged Communities (DACs)? Will your state use federal/EPA tools and data to help identify DACs and/or frame equity/EJ issues for water quality management planning (e.g., [EJScreen](#), [CEJST](#)¹⁰, [EPA Justice40 Interim Disadvantaged Communities Indices](#)¹¹)?
2. Beyond the Federal tools noted above, what other tools and data will your state use to help identify DACs and/or frame equity/EJ issues for water quality management planning?
3. What is your state's baseline of support for DACs in the following programmatic areas? In each of these areas, what proportion of activities take place in, or upstream from and provide benefits to, DACs:
 - a. grants/subawards made with federal CWA resources provided to your state;
 - b. projects identified in Intended Use Plans that guide CWSRF investments;
 - c. outreach/education/technical assistance efforts;
 - d. water quality monitoring;
 - e. assessment and developing lists of impaired waters;
 - f. developing TMDLs or other restoration or protection plans;
 - g. developing 9-element watershed plans and investing section 319 project resources;¹²
 - h. writing NPDES permits for point source dischargers;
 - i. oversight of U.S. Army Corps of Engineers issuance of Section 404 permits;
 - j. protecting sources of drinking water (if not covered in responses to the above items, or in addition to those activities); and
 - k. other program areas.
4. To the extent that DACs are not receiving proportional benefits from your state's water quality management program, how will your state use 604(b) funding to, e.g.:
 - a. make identifying and targeting DACs an explicit priority in outreach/education/technical assistance efforts and ensure meaningful participation by DACs in planning processes impacting them;
 - b. increase support for DACs via CWSRF Intended Use Plans;
 - c. update holistic, water quality management planning documents and processes (e.g., Continuous Planning Processes (CPPS), updates to state-wide Water Quality Management Plans (WQMPs)) to focus efforts on improving program benefits for DACs;
 - d. add monitoring stations/sampling events in waters in or upstream from DACs;

¹⁰ Beta version.

¹¹ EPA is currently working to share the Justice40 Interim Disadvantaged Communities Indices with the public as soon as possible. EPA plans to host this information on a public webpage in the coming weeks, and to incorporate the Justice40 Interim Disadvantaged Communities Indices into the public version of EJScreen during the next update of the tool. This is tentatively scheduled to take place in summer of 2022.

¹² See: <https://www.epa.gov/system/files/documents/2021-10/equity-in-the-nps-program-section-319-policy-memo-signed.pdf>

- e. modify the state's approach to assessing and identifying impaired waters, developing TDMLs, developing 9-element watershed plans and prioritizing nonpoint source projects; prioritizing NPDES permit writing, oversight of Corps 404 permitting, and other program areas?
5. What governmental or nongovernmental organizations are being or could be engaged to help characterize and respond to equity/EJ issues?
- a. Are there organizations in your state with equity/EJ expertise? What roles do/can RPCPOs/IOs play in enhancing DACs access to water program benefits?
 - b. Are there additional RPCPOs/IOs that could be engaged to advance equity/EJ goals? If not, what steps will current RPCPOs/IOs take to engage with and build capacity of DACs?

Climate Questions

Climate-related risks that can impact water quality include wildfires; extreme heat and higher water temperatures; droughts, floods and resulting changes in concentrations of contaminants/ions; sea level rise and increased storm surges; decreasing groundwater tables; loss of or changes to habitat; and melting permafrost.

1. How does your state currently factor climate considerations into its water quality management program?
 - a. Does your state use any of the tools that EPA makes available at its [Climate Change and Water Tool](#) website? If so, which ones? Beyond these federal tools, what tools and data does your state use to help understand climate-related issues and plan accordingly?
 - b. What studies has your state completed or have underway to assess climate-related stressors such as sea-level rise analyses, groundwater table studies, and/or wildfire risk studies?
 - c. What roles do RPCPOs/IOs or other organizations currently play in factoring climate considerations into water quality management planning?
2. How will your state use 604(b) funds to further evaluate climate vulnerability and plan for additional climate adaption and mitigation activities? Will your state:
 - a. increase use of climate change evaluation and assessment tools (e.g., those available at EPA's [Climate Change and Water Tool](#) website, such as [Creating Resilient Water Utilities](#), and/or the [U.S. Climate Resilience Toolkit](#))? Which tools?
 - b. conduct studies focused on specific climate-related stressors, such as sea-level rise analyses, groundwater table studies, and/or wildfire risk studies?
 - c. conduct additional monitoring to establish climate baseline data and/or support characterization of changes/trends from a previously established baseline?
 - d. update WQM Plans and/or CPPs to establish goals related to climate mitigation, adaptation, and/or resilience?
 - e. make plans to increase support for conservation practices that can improve water quality and have climate mitigation, adaptation, and resiliency co-benefits (e.g., soil health practices that can increase flood and drought resiliency, capture soil carbon, and improve water quality)?

- f. conduct studies to determine the feasibility of incorporating nature-based solutions (e.g., cost-benefit analyses that compare lifecycle costs of nature-based solutions vs. traditional “gray” infrastructure)?
 - g. make plans to incorporate other nature-based solutions (e.g., floodplain restoration, bioretention, constructed wetlands) to holistically address water quality management challenges?
3. What other clean water funding sources will your state use to address water quality and clean water infrastructure concerns related to climate? List resources.
4. What governmental or nongovernmental organizations will your state engage to help further characterize and respond to climate issues? Are there additional RPCPOs/IOs that could be engaged to advance climate goals?