



***Emerging Contaminants in Small or Disadvantaged
Communities – Tribal Grant Program
Implementation Manual***

Infrastructure Investments and Jobs Act (IIJA)

Safe Drinking Water Act §1459A

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Safe Drinking Water Act Section 1459A

Infrastructure Investment and Jobs Act (IIJA) of 2021 (P.L. 117-58) Division J (FY 2022 Appropriations), Title VI – State and Tribal Assistance Grants (6)

Introduction

President Biden signed the Infrastructure Investment and Jobs Act (IIJA) of 2021 (P.L. 117-58) on November 15, 2021. The law's investment in the water sector is nothing short of transformational. It includes more than \$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 water infrastructure that the federal government has ever made. Among its provisions, the IIJA provides a total of \$5 billion in fiscal years 2022-2026 for the Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) grant program, which focuses on addressing emerging contaminants such as perfluoroalkyl and polyfluoroalkyl substances (PFAS) and perchlorate in small or disadvantaged communities' finished drinking water and/or source water.

EPA recognizes that communities across the country need assistance to address emerging contaminants, including PFAS, in drinking water. That's why EPA identifies remediation as a central directive in EPA's approach. EC-SDC funding provides resources to help states, tribes, and territories improve access to safe drinking water by identifying and reducing the risks posed by PFAS and other emerging contaminants.

This document contains information about the *EC-SDC – Tribal Grant Program* for both internal and external stakeholders. Nothing in this document is meant to conflict with statute or supersede Office of Management and Budget Guidance, or EPA's regulations, policy, or any grant terms and conditions. All public materials for the tribal grant program are available at <https://www.epa.gov/tribalwater/funding-opportunities-tribal-drinking-water-programs>. A separate implementation manual containing information regarding the administration of funds for states and territories under the *EC-SDC Grant Program* can be found at <https://www.epa.gov/dwcapacity/emerging-contaminants-ec-small-or-disadvantaged-communities-grant-sdc>.

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I. OVERVIEW AND STATUTORY AUTHORITY

The purpose of this implementation manual is to describe how the U.S. Environmental Protection Agency (EPA) will administer grant funds under the Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) – Tribal Grant Program. The EC-SDC Tribal Grant Program is designed to fund projects and activities that address emerging contaminants in drinking water systems serving small tribal communities. Projects and activities funded under the EC-SDC Tribal Grant Program must meet all eligibility and funding requirements as explained in this manual. Statutory provisions described in this document are legally binding requirements. However, this document does not substitute for those provisions or any OMB Uniform Grant Guidance regulations, nor is it a regulation itself. Any decisions regarding a specific situation will be made based on all applicable statutes, regulations, and regional policies.

The statutory authority for the EC-SDC grant program is the IIJA appropriation “for grants for addressing emerging contaminants under subsections (a) through (j) of section 1459A of the Safe Drinking Water Act (SDWA),” as further explained below. Section 1459A of SDWA is the authority for EPA’s [Assistance for Small, Underserved, and Disadvantaged Communities \(SUDC\) Tribal Drinking Water Grant Program](#). The SUDC tribal grant program is designed to help public water systems in underserved and small tribal communities meet and comply with SDWA requirements. The SUDC program provides assistance to underserved communities that have no household drinking water or wastewater services or are served by a public water system that violates or exceeds any Maximum Containment Level, treatment technique, or action level. The new EC-SDC Tribal Grant Program is distinct from the SUDC grant program in that it focuses on assisting public water systems in small tribal communities to identify and/or remediate challenges related to PFAS and other emerging contaminants.

The IIJA appropriates funds for and authorizes the EC-SDC Tribal Grant Program:

“(6) \$5,000,000,000 for grants for addressing emerging contaminants under subsections (a) through (j) of section 1459A of the Safe Drinking Water Act (42 U.S.C. 300j–19a).”¹

EPA understands this to refer specifically to direct, one-time project and activity costs under SDWA 1459A(g)(1) and (2). Ongoing operation and maintenance costs as described in SDWA 1459A(g)(3) are not eligible for this funding and must be paid for by the eligible entity.

Water systems receiving assistance through EC-SDC tribal grants funded by this IIJA appropriation may support a community described in Section 1459A(c)(2) of SDWA and do not have to serve communities that meet the definition of “underserved community” in Section 1459A(a)(2) of SDWA.

SDWA section 1459A(c)(2) describes the small tribal communities that are eligible to receive funding under this grant program. The term ‘**small**’ as it relates to tribal communities receiving assistance under the grant program means a community:

¹ P.L. 117-58, Division J, Title VI – State and Tribal Assistance Grants at 6.

“(c)(2)(B) with a population of less than 10,000 individuals that the Administrator determines does not have the capacity to incur debt sufficient to finance a project or activity under subsection (b).”²

Tribes and their respective communities that are determined to have a population less than 10,000 and lack the capacity to incur sufficient debt may qualify for assistance under the grant program. Assistance through the grant program is subject to the availability of appropriated funds.

This document explains the manner in which the goals, objectives, and legal requirements of the *EC-SDC – Tribal Grant Program* may be successfully met.

II. ELIGIBLE ENTITIES AND BENEFICIARIES

Section 1459A(c) of SDWA describes the eligible recipients of Emerging Contaminants in Small or Disadvantaged Communities funds:

“(c) ELIGIBLE ENTITIES. —Except for the purposes of subsections (j) and (m), an eligible entity under this section— (1) is—

(A) a public water system;

(B) a water system that is located in an area governed by an Indian Tribe; or

(C) a State, on behalf of an underserved community; and

(2) serves a community—

(A) that, under affordability criteria established by the State under section 1452(d)(3), is determined by the State—

(i) to be a disadvantaged community; or

(ii) to be a community that may become a disadvantaged community as a result of carrying out a project or activity under subsection (b); or

(B) with a population of less than 10,000 individuals that the Administrator determines does not have the capacity to incur debt sufficient to finance a project or activity under subsection (b).”³

Entities eligible to receive funds from the tribal allotment of this grant program are limited to **public water systems serving tribal communities that have a population of less than 10,000 individuals and that lack the capacity to incur sufficient debt to finance the project**, pursuant to SDWA section 1459A(c)(1)(C)(2)(B). Eligible public water systems include existing privately- and publicly owned community water systems and non-profit non-community water systems, including systems utilizing point of entry or residential central treatment. EPA also has the authority to award grants to the State of Alaska on behalf of public water systems serving Alaska Native Villages (ANVs).

² SDWA section 1459A(c)(2), 42 U.S.C. 300j-19a(c)(2). See also Appendix B.

³ Ibid.

The disadvantaged community criteria described in SDWA section 1459A(c)(1)(C)(2)(A), above, are applicable when determining eligibility for receiving funds under the separate EC-SDC Grant Program for States and Territories, but *not* the EC-SDC Tribal Grant Program, which is the subject of this Implementation Manual. Tribal communities receiving assistance under the tribal program must meet the eligibility criteria for “small” communities as described in subsection (c)(2)(B): A community “*with a population of less than 10,000 individuals that the Administrator determines does not have the capacity to incur debt sufficient to finance a project or activity under subsection (b).*”

Assistance may be provided to the following types of public water systems:

- Tribally Owned Water Systems: All existing community water systems and all non-profit, non-community water systems owned by a tribal government are considered to serve an Indian tribe and are eligible to have projects funded with grant program funds.
- Non-Tribally Owned Water Systems: The tribal population served by the water system must be governed by a federally recognized tribal entity. When considering projects with non-tribally owned water systems, Regions must consider the tribal proportion of the population to benefit from the project. A system’s tribal population may be a small percentage of the total service population, but a particular project may be primarily for the benefit of that tribal population. If the project is exclusively or primarily for the benefit of a tribal population, then the Region may conclude that the EC-SDC – Tribal Grant Program should fund the entire cost of the project. On the other hand, if the tribal population benefitting from the project is a relatively small percentage of the total population benefitting from the project, then the Region must conclude that it is not appropriate for the EC-SDC – Tribal Grant Program to fund the entire cost of the project. In this case the EC-SDC – Tribal Grant Program should fund the project proportionally according to the tribal population served. Regions should evaluate these situations on a project-by-project basis.

The following types of water systems are ineligible to receive funding from the Grant Program:

- Federally-owned public water systems: the EC-SDC– Tribal Grant Program cannot directly be used to fund drinking water systems owned and operated by the federal government for the benefit of a tribe.
- For-profit non-community water systems.

EC-SDC funds will be allocated among EPA Regions based on the same allocation formula that is used to allocate funds under the DWIG-TSA Emerging Contaminants program. EPA Regions will then award funding to eligible entities. EPA Regions may also utilize third parties, including technical assistance providers and other federal agencies to provide in-kind services to implement a project or activity exclusively or primarily for the benefit of eligible public water systems serving tribes.

III. ELIGIBILITY PROVISIONS

Project or activities eligible for funding under this appropriation include those provided in Section 1459A(b)(2) of SDWA, to the extent that the primary purpose is to address one or more emerging

contaminants in drinking water. The cost-sharing requirements of Section 1459A(g) (including necessary ownership of any land, easements, rights-of-way, or relocations) are not required.⁴ Other contaminants or deficiencies, including those subject to primary or secondary drinking water regulations, may be addressed as a secondary purpose of a project. To the extent that there are sufficient applications, Regions should aim to prioritize projects with the primary purpose of addressing PFAS in drinking water systems or source water. To maximize public health protection, Regions are also encouraged to prioritize projects that address other contaminants that are likely to have high levels of occurrence and associated public health concerns, such as perchlorate. Regions are also encouraged to use this funding to measure the occurrence of emerging contaminants in water systems serving tribes.

Definition of Emerging Contaminants: Emerging contaminants refers to *substances and microorganisms, including manufactured or naturally occurring physical, chemical, biological, radiological, or nuclear materials, which are known or anticipated to be in the environment.* Projects that address any contaminant listed on any of EPA’s contaminant candidate lists (CCLs) are eligible (i.e., CCL1 – draft CCL5) for funding under this grant program.

If EPA has set a maximum contaminant level (MCL) under the [National Primary Drinking Water Regulations](#) (NPDWR) for a contaminant, it is not an emerging contaminant and a project whose primary purpose is to address that contaminant is not eligible for funding, with the exception of PFAS as noted below. For example, a project for which the primary purpose is to address arsenic or nitrate in drinking water is not eligible because arsenic and nitrate are regulated under the NPDWRs. A project with a primary purpose of addressing chlorpyrifos (which is not a regulated drinking water contaminant) that would also address arsenic or nitrate contamination would be eligible.

EPA expects to establish a [NPDWR](#) for two PFAS – PFOA and PFOS. The Agency is also evaluating additional PFAS and groups of PFAS. EPA has determined that PFAS-focused projects will be eligible for funding under this appropriation regardless of whether EPA has established a NPDWR for that particular PFAS or group of PFAS. More information on PFAS is located here: <https://www.epa.gov/pfas>.

The evolving nature of contaminants, the regulatory requirement to produce water that meets multiple primary and secondary standards, and the need to consider multiple contaminants in the planning, design, and implementation of infrastructure improvements all support a holistic and comprehensive approach to contaminants as the most efficient and cost-effective means of achieving the objectives of SDWA section 1459A and IIJA. If projects are funded from multiple sources, Regions must only charge eligible project activities to each respective award.

Costs to make drinking water system improvements are not eligible for EC-SDC funding unless they are directly and reasonably related to the project to address emerging contaminants. For example, a project to develop a new well to address emerging contaminant issues that is located a distance away from the current treatment facility could include installing a transmission line to connect them. A project to

⁴ SDWA subsections 1459A(g)(1) and (2) do not apply to this grant funding opportunity.

replace a water main, where the replacement is unrelated to an emerging contaminant, at a separate location in the distribution system would not be eligible for funding.

Definition of “primary” purpose: For the purposes of eligibility determination, “primary” means the components of the project that address emerging contaminant(s) exceed 50% of the total project costs or level of effort (LOE). In addition, in the case that the costs or LOE attributable to the emerging contaminant do not exceed 50% and the project components attributable to both emerging and other contaminants are co-located, the primary purpose still can be considered as addressing emerging contaminants provided that a preliminary engineering report, alternatives analysis, or similar engineering document identifies the emerging contaminant-attributable activities as a preferred method for addressing emerging contaminants.

***Example:** A water system has elevated levels of PFAS and also has long struggled to maintain arsenic levels below the MCL. Treatment is determined to be the best alternative for addressing PFAS, and a treatment facility must be constructed. The system would like to install arsenic treatment in the water system at the same time. The costs of constructing the facility and installing both arsenic and PFAS treatment are eligible for funding, provided the costs or LOE attributable to PFAS treatment exceed 50% of the project total. In the case that the costs and LOE to address PFAS are not more than 50%, all costs are eligible provided that the selected PFAS treatment components are identified as the preferred method of addressing PFAS.*

When determining whether components of EC-SDC grant-funded projects are eligible for EC-SDC grant funding, as long as the project component is integral to the EC purpose of the project, expenses related to that component may be drawn from the EC-SDC grant funding.

IV. ELIGIBLE USES AND ACTIVITIES

In accordance with the statutory eligibilities stated in SDWA Section 1459A, EC-SDC grant funding can be used for activities that may include, but are not limited to, work in the following categories:

- Scoping and identification
- Testing or sampling for baseline assessment ⁵
- Research and testing
- Planning and design
- Treatment
- Source
- Storage
- Water system restructuring, consolidation, or creation
- Providing households access to drinking water services
- Technical assistance

⁵ This includes the development of biochemical markers that complement the toxicity profile of these contaminants and highlight the need for further research on ECs and their implications, and the regulations required to protect human health, etc.

- Public communication, engagement, and education

A list of example activities that could be funded under each category can be found in Appendix D for further reference. These lists are not intended to represent all types of eligible activities. Also note that a wide range of costs and expenditures associated with an infrastructure construction project are eligible as part of a project budget. Regions can contact EPA HQ with any questions regarding the eligibility of proposed activities.

Technical assistance to develop projects is eligible: Technical assistance can be provided in several ways. First, Regions are encouraged to use EC-SDC tribal funds to provide hands-on technical assistance to water systems serving tribes. Funds may be used by Regions to directly assist systems or subcontract with technical assistance providers. Regions may provide technical assistance to help identify needs, develop projects, and design and implement projects. Second, the IIJA grant funding also provides EPA with administrative set-aside funding. The agency plans to use the funding to provide technical assistance to help disadvantaged or small communities access federal resources.

Workforce development activities are eligible as a supplement to any other eligible activity: The IIJA provides an opportunity to support the workforce needed to accomplish the infrastructure investment through the EC-SDC grant funding. Eligible activities may include reasonable costs to support on-the-job training, apprenticeship, pre-apprenticeship, and youth training programs that open pathways to employment. Examples of workforce development activities can be found in Appendix D.

Linkage to EPA's Strategic Plan: The activities to be funded must support the EPA's FY 2022 – 2026 Strategic Plan. Funding supports the following goal and objective:

- Goal 5: "Ensure Clean and Safe Water for All Communities," Objective 5.1 "Ensure Safe Drinking Water and Reliable Water Infrastructure."

V. INELIGIBLE ACTIVITIES AND USES

The following restrictions apply to funding under the *EC-SDC – Tribal Grants Program*:

- **Private Wells:** Section 1459A of the SDWA does not allow EPA to authorize grants for projects that address contaminants in individual private wells unless the purpose of the activity is to determine whether an individual private well should be connected to an existing public water system or to create a new public water system.
- **Bottled Water:** Consistent with the statutory provisions for the SUDC grant program and the DWSRF and DWIG-TSA programs, funding for bottled water is not eligible under this EC-SDC Tribal Grant Program.

Examples of additional ineligible uses of grant funds are listed below. Please note that this list is intended to be illustrative and is not a comprehensive list of all ineligible activities. Grant funding may not be used for the following activities:

- Projects whose primary purpose is not to address emerging contaminants.
- Remediation of contaminated groundwater or underlying aquifers.
- Operations and maintenance costs (prohibited by statute).⁶
- Lead service line replacement.
- Replacement of premise plumbing.
- Construction or rehabilitation of dams.
- Activities needed primarily for fire protection.
- Activities needed primarily to serve future population growth.
- Activities that have received assistance from the *EC-SDC Grant Program* through allotments to states or territories
- Costs that are unallowable (e.g., lobbying and alcoholic beverages) under [2 CFR 200 Subpart E – Cost Principles](#).

VI. ALLOCATION OF FUNDS

EPA will distribute the national tribal allotment of the *EC-SDC – Tribal Grant Program*, subject to Congressional appropriations, as an allocation to regions based upon the emerging contaminants tribal funding allocation formula, which was established in 2023 to distribute funds under the DWIG-TSA Emerging Contaminants funding program. Details about how the regional allotments are calculated can be found on the [DWIG-TSA website](#).

⁶ SDWA § 1459A(g), 42 U.S.C. § 300j-19a(g). While operations and maintenance costs are ineligible costs, water systems may wish to use Design-Build-Operate procurement approach to facilitate greater lifetime project efficiencies. In such cases, the cost of operations must be clearly identifiable.

There is no cost share requirement for grantees to pay a portion of project costs, provide in-kind contributions, or to provide land, easements, rights-of-way, or relocations. Grant funds may cover 100% of eligible project costs.

VII. AWARD ADMINISTRATION INFORMATION

EPA Regions will administer annual allotments to fund projects that address emerging contaminants in drinking water in tribal communities. Regional offices will develop processes and procedures to work with the tribes in their region to implement the EC-SDC Tribal Grant Program.

- A. **Project and Budget Period:** EPA's Office of Groundwater and Drinking Water will reprogram annual allotments to Regional Offices. This grant program is funded under the State and Tribal Assistance Grants (STAG) account. Regions are encouraged to obligate funding within one year after receiving an allotment. When funding projects, Regional offices should aim to obligate funds from the earliest annual allotment received. For example, if a Region has both FY22 and FY23 funds, they should first use FY22 funds before obligating FY23 funds.

The total duration of the project period for an IA may not exceed seven years. It is anticipated that project period of new grants under this program will be no more than six years.

- B. **Project Identification and Prioritization:** The principal objective of the program is to enable water systems serving small tribal communities to effectively address emerging contaminants in drinking and/or source water, and to minimize potential public health risks from emerging contaminants in the future. A secondary objective is to enable water systems to achieve compliance with standards for regulated contaminants and otherwise achieve and maintain compliance with SDWA.

Each EPA Region is responsible for working with the tribes in their Region and other relevant stakeholders to identify, prioritize, and select projects to receive funding from its share of the program funds. Regions are given flexibility to develop identification, prioritization, and selection processes that work best for the tribes in their Region but must ensure that these processes are consistent with the authorizing statutes and guided by the program objectives stated above.

There are several methods that Regions can use to help identify projects. For example, Regions may issue a Notice of Funding Availability (NOFA) to collect project proposals from water systems serving tribes in their region. Regions may also reference IHS' Sanitation Deficiency System (SDS) database to identify potential projects. Additionally, Regions can utilize these funds to provide technical assistance to help water systems serving tribes to identify and develop projects. Regions may use a combination of methods to identify EC-SDC tribal projects.

Regions will also be responsible for developing a fair and transparent method for prioritizing and selecting projects and this method must be applied to all potential projects each fiscal year.

Each Region's prioritization method should differentiate the projects according to the severity of the health risk to be resolved by the project. Acute health risks should be resolved before non-acute risks and known threats should be addressed before potential threats. Assuming projects address similar health risks, additional criteria can help Regions select the best project for funding in a given fiscal year.

The universe of substances considered to be 'emerging contaminants' is, by its nature, variable and evolving (see definition of "emerging contaminants" in Appendix C). Regions are encouraged to think broadly about the type of contaminants that pose public health risks through drinking water. Regions may consider coordinating with offices responsible for wastewater management, hazardous waste management, and cleanup programs on tribal lands to identify potential contaminants and sources of contamination. However, to the extent there are sufficient applications, projects that address PFAS should be prioritized. Regions are also encouraged to prioritize projects that address perchlorate and other persistent "forever" chemicals.

Tribal water systems may not have been extensively sampled to identify the existence of emerging contaminants on the CCL, and Regions are encouraged to focus first-year funds on emerging contaminants sampling as well as preliminary engineering activities that will lead to well-scoped and ready-to-fund projects in the future fiscal years of this program.

Regions must describe their criteria for project selection in writing and submit it to the Office of Groundwater and Drinking Water (OGWDW) for review to ensure consistency with all relevant statutes, policies, and implementation guidelines. Within 30 days of receipt of the Regional project selection criteria, OGWDW will either provide approval or will provide written comments to the Region for consideration in revising their criteria.

- C. **Project Implementation:** EC-SDC tribal funding can be implemented through the following mechanisms:
- a. **Direct Grants to Eligible Entities:** Eligible public water systems may implement projects through a direct grant. Direct grants to tribes through the EC-SDC Tribal Grant Program are subject to assistance agreement regulations and Office of Grants and Debarment (OGD) Orders, Grants Policy Issuances (GPIs), and guidance. Resources to assist current and potential grant recipients to understand EPA's grants policies, processes, and procedures are available at <https://www.epa.gov/grants>.
 - b. **Interagency Agreements (IA):** Some eligible water systems may request that IHS or another federal agency plan, design, construct and/or administer construction of the projects funded with EC-SDC Tribal Grant Program funds. If IHS or another federal agency agrees to provide the requested service, the eligible entity can request that EPA directly transfer the funds for the project to that agency through an IA. An IA reduces

the administrative burden on the water system and/or tribe and tends to reduce the amount of paperwork for all parties.

- c. **Contracts to Provide Direct Technical Assistance:** As previously discussed in Section IV. Eligible Uses and Activities, EPA may also utilize technical assistance providers to provide in-kind services to implement a project or activity for the benefit of eligible tribal communities.
- d. **Grants to the State of Alaska:** EPA also may award grants to the State of Alaska on behalf of public water systems serving Alaska Native Villages (ANVs). Award of funds to the State of Alaska for the benefit of ANVs may only occur when the village asks the state to administer the project and the state agrees to manage the project on their behalf.

Regardless of whether funds are administered through a direct grant to an eligible entity, an IA, or direct technical assistance, EPA Regions are responsible for managing the funds and for tracking and recording project progress.

- D. **Terms and Conditions:** EPA Regions will ensure that all applicable terms and conditions are included in the grant agreements. General administrative and programmatic terms and conditions applicable to EPA's assistance agreements may be viewed at www.epa.gov/grants/grant-terms-and-conditions. Additionally, EPA Headquarters will provide the Regions with a list of program specific terms and conditions that will be applicable to grant agreements.

If Regions enter into Interagency Agreements with IHS or other federal agencies, the required standard terms and conditions for these IAs can be found in Appendix D of the [DWIG-TSA Revised Guidelines](#).

- E. **Reporting Requirements:** Within 90 days of an obligation or award (including via IA, grant, or contract), Regions will be required to submit a programmatic report to headquarters through TDI Nexus. Reporting in TDI Nexus must include a summary of the following information:
 - a. Water system/community name
 - b. Water system/community location
 - c. Name of tribe(s) served by water system
 - d. Assistance provided (specify if the project involves EC detection activities and/or EC reduction activities)
 - e. Need addressed
 - f. Project or activity costs
 - g. Technical progress
 - h. Additional planned activities
 - i. Summary of expenditures

Regions will update this information in TDI Nexus semiannually or more frequently.

Within 120 days of the project period end date, EPA Regions will submit via email to OGWDW a final project report, which will include a project/activity summary, project/activity costs, benefits to the community, outputs and outcomes achieved, and successes and/or lessons learned.

VIII. OTHER APPLICABLE PROVISIONS AND CONSIDERATIONS

1. **Regulatory Requirements for Grant Assistance Agreements:** All awards under this grant program are subject to the regulations of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards; Title 2 CFR, Parts 200 and 1500. A listing and description of EPA's general regulations applicable to the award of assistance agreements may be viewed at: <https://www.epa.gov/grants/policy-regulations-and-guidance-epa-grants>.
2. **Equivalency:** IJA supplemental appropriations are federal funds. Projects funded through the EC-SDC – Tribal Grant Program cannot be used to meet the equivalency requirements of other federal programs.
3. **Expenses Incurred Prior to the Project Period:** As described in [2 CFR §200.458](#) and as authorized by [2 CFR §200.309](#) and [2 CFR §1500.8](#), pre-award costs incurred prior to the effective date of the federal award or subaward that are directly pursuant to the negotiation and in anticipation of the Federal award, where such costs are necessary for the efficient and timely performance of the scope of work, are allowable to the extent that they meet all other eligibility requirements, with the written approval and requirements set forth by EPA. Pre-award costs are generally acceptable for time periods within the 90 days of the award date. EPA defines pre-award costs as costs incurred prior to the award date, but on or after the start date of the Budget period and Period of performance as those terms are defined in 2 CFR 200.1. Under EPA's interpretation of 2 CFR 200.308(e)(1) and 2 CFR 1500.9 all eligible costs must be incurred during the budget/performance period as defined by the start and end date shown on the grant award to receive EPA approval. This interpretation is implemented in a grant-specific Term and Condition entitled "Pre-award Costs" which must be included in all awards when the applicant has incurred EPA approved costs prior to award. If pre-award costs are sought for periods greater than 90 days, EPA approval will be required. All costs incurred before the Federal awarding agency makes the Federal award are at the recipient's risk (i.e., the Federal awarding agency is not required to reimburse such costs if for any reason the recipient does not receive a Federal award or if the Federal award is less than anticipated and inadequate to cover such costs).
4. **Build America, Buy America Act:** Congress established the Build America Buy America (BABA) Act, a domestic preference program to create long-term opportunities for domestic manufacturers and manufacturing jobs and build resilient domestic supply chains for a wide range of products. For EC-SDC recipients, BABA introduces domestic preference requirements for iron and steel, construction materials, and manufactured goods. EPA will support whole of

government efforts to catalyze domestic manufacturing, resilient supply chains, and good jobs – while successfully delivering a wide range of critical infrastructure projects for states, local communities, counties, tribal nations and farms, factories, and businesses across the U.S. EPA released implementation procedures for [BABA compliance](#) for federal water infrastructure grant funding programs in November 2022. EPA recognizes this is a new and complex law and will work closely with states, tribes, and territories on technical assistance, compliance, and training.

Regions can refer to EPA’s [BABA webpage](#) for the most current information. For projects that are implemented by IHS through an IA with EPA, IHS will be responsible for overseeing compliance with BABA requirements. If Regions issue direct grants to eligible entities to implement projects, Regions will be responsible for providing oversight on BABA compliance to recipients. These responsibilities include:

- Informing EC-SDC grant recipients of the BABA domestic preference requirements and/or waiver eligibilities.
- Assisting with overseeing BABA implementation across EC-SDC Tribal Grant Program-funded projects, as applicable, and relay detailed information, as provided by EPA HQ and the Office of Management and Budget, on BABA compliance requirements, flexibilities, and processes to recipients.
- Educating funding recipients about their eligibility for waivers and provide help applying for waivers. EPA HQ will develop appropriate waivers and processes to facilitate compliance with these requirements.

5. **Environmental Reviews:** Consistent with the procedural requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., as implemented by the Council on Environmental Quality (CEQ) Regulations (40 CFR Parts 1500 through 1508), and EPA’s NEPA Regulations (40 CFR Part 6), grant recipients may be required to conduct environmental reviews in the administration of EC-SDC tribal funds.
6. **Federal Civil Rights Responsibilities, Including Title VI of the Civil Rights Act of 1964:** EPA has a responsibility to ensure that recipients and subrecipients of federal financial assistance from EPA comply with federal civil rights laws that prohibit discrimination on the basis of race, color, national origin (including limited English proficiency), disability, sex and age, including Title VI of the Civil Rights Act of 1964.

EPA Regions shall review program activities to ensure compliance with civil rights laws by recipients of EPA funding and to confirm no community is excluded from receiving or denied benefit of EC-SDC funding based on race, color, national origin (including limited English proficiency), age, disability or sex. Further, financial award agreements and contracts must include appropriate Title VI nondiscrimination language.

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>.

7. **Funding to Subrecipients:** Funding may be used to provide subawards of financial assistance provided the recipient complies with applicable requirements for subawards including those contained in 2 CFR Part 200 and EPA's Subaward Policy at <https://www.epa.gov/grants/grants-policy-issuance-gpi-16-01-epa-subaward-policy-epa-assistance-agreement-recipients>. The National Terms and Conditions for Subawards is available at https://www.epa.gov/sites/production/files/2016-02/documents/gmc_subaward_policy_appendix_b_national_t_and_c.pdf.
8. **Fostering Energy Efficient and Resilient Water Systems:** Some water systems use significant amounts of energy which, when generated by the combustion of fossil fuels or other materials, contribute to climate change. At the same time, they are often vulnerable to the impacts of climate change and extreme weather. Regions are encouraged to use IJIA funding to support projects that minimize greenhouse gas emissions, incorporate renewable energy generation, and build resilience to climate change threats using the best available and most geographically relevant climate information, projections, and standards, such as the Federal Flood Risk Management Standard.

Consistent with [Presidential Policy Directive \(PPD\) 21](#), critical infrastructure must be secure and resilient to all threats and hazards, both natural and manmade, in an increasingly electrified, digitized, and interconnected society. When considering projects that address emerging contaminants, Regions are encouraged to ensure that these investments also foster water system resilience to all hazards, including new and emerging threats such as cybersecurity events that threaten exposure to drinking water contaminants.
9. **Performance Partnership Grants:** Funds awarded under this program are not eligible for inclusion with the tribe's Performance Partnership Grants
10. **Quality Assurance/Quality Control:** Activities that include the collection of environmental data, such as household water quality testing, will need to comply with the Quality Assurance/Quality Control requirements in [2 CFR 1500.12](#). Environmental data are any measurements or information that describe environmental processes, location, or conditions; ecological or health effects and consequences; or the performance of environmental technology. Regions should allow sufficient time and resources for this process.

IX. CONTACT INFORMATION

If you have any questions concerning the contents of this Guide, you may contact Gabriella Neusner, from the Office of Groundwater and Drinking Water's Tribal and Water Resources Assistance Branch at (202) 566-2287 or Neusner.gabriella@epa.gov. Regional points of contact can be found at: <https://www.epa.gov/tribaldrinkingwater/regional-tribal-drinking-water-coordinators>

APPENDIX A. IJJA DIVISION J TITLE VI APPROPRIATION

(6) \$5,000,000,000 for grants for addressing emerging contaminants under subsections (a) through (j) of section 1459A of the Safe Drinking Water Act (42 U.S.C. 300j–19a): Provided, That \$1,000,000,000, to remain available until expended, shall be made available for fiscal year 2022, \$1,000,000,000, to remain available until expended, shall be made available for fiscal year 2023, \$1,000,000,000, to remain available until expended, shall be made available for fiscal year 2024, \$1,000,000,000, to remain available until expended, shall be made available for fiscal year 2025, and \$1,000,000,000, to remain available until expended, shall be made available for fiscal year 2026: Provided further, That funds provided to States under this paragraph may be used for projects that address emerging contaminants supporting a community described in section 1459A, subsection (c)(2), of the Safe Drinking Water Act, notwithstanding the definition of underserved communities in section 1459A, subsection (a)(2), of the Safe Drinking Water Act: Provided further, That funds provided under this paragraph in this Act shall not be subject to the matching or cost share requirements of section 1459A of the Safe Drinking Water Act: Provided further, That up to three percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be for salaries, expenses, and administration: Provided further, That one-half of one percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act;

APPENDIX B. SDWA SECTION 1459A ASSISTANCE FOR SMALL AND DISADVANTAGED COMMUNITIES

42 USC 300j-19a: Assistance for small and disadvantaged communities

Text contains those laws in effect as of February 28, 2022.

SEC. 1459A. ASSISTANCE FOR SMALL AND DISADVANTAGED COMMUNITIES.

(a) DEFINITION OF UNDERSERVED COMMUNITY.—In this section:

(1) IN GENERAL.—The term ‘underserved community’ means a political subdivision of a State that, as determined by the Administrator, has an inadequate system for obtaining drinking water.

(2) INCLUSIONS.—The term ‘underserved community’ includes a political subdivision of a State that either, as determined by the Administrator—

(A) does not have household drinking water or wastewater services; or

(B) is served by a public water system that violates, or exceeds, as applicable, a requirement of a national primary drinking water regulation issued under section 1412, including—

(i) a maximum contaminant level;

(ii) a treatment technique; and

(iii) an action level.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Administrator shall establish a program under which grants are provided to eligible entities for use in carrying out projects and activities the primary purposes of which are to assist public water systems in meeting the requirements of this title.

(2) INCLUSIONS.—Projects and activities under paragraph (1) include—

(A) investments necessary for the public water system to comply with the requirements of this title;

(B) assistance that directly and primarily benefits the disadvantaged community on a per-household basis;

(C) programs to provide household water quality testing, including testing for unregulated contaminants;

(D) the purchase of point-of-entry or point-of-use filters and filtration systems that are certified by a third party using science-based test methods for the removal of contaminants of concern;

(E) investments necessary for providing accurate and current information about—

(i) the need for filtration and filter safety, including proper use and maintenance practices; and

(ii) the options for replacing lead service lines (as defined in section 1459B(a)) and removing other sources of lead in water; and

(F) entering into contracts, including contracts with nonprofit organizations that have water system technical expertise, to assist—

(i) an eligible entity; or

(ii) the State of an eligible entity, on behalf of that eligible entity.

(c) ELIGIBLE ENTITIES.—Except for the purposes of subsections (j) and (m), an eligible entity under this section—

(1) is—

- (A) a public water system;
- (B) a water system that is located in an area governed by an Indian Tribe; or
- (C) a State, on behalf of an underserved community; and

(2) serves a community—

(A) that, under affordability criteria established by the State under section 1452(d)(3), is determined by the State—

- (i) to be a disadvantaged community; or
- (ii) to be a community that may become a disadvantaged community as a result of carrying out a project or activity under subsection (b); or

(B) with a population of less than 10,000 individuals that the Administrator determines does not have the capacity to incur debt sufficient to finance a project or activity under subsection (b).

(d) PRIORITY.—In prioritizing projects and activities for implementation under this section, the Administrator shall give priority to projects and activities that benefit underserved communities.

(e) LOCAL PARTICIPATION.—In prioritizing projects and activities for implementation under this section, the Administrator shall consult with and consider the priorities of States, Indian Tribes, and local governments in which communities described in subsection (c)(2) are located.

(f) TECHNICAL, MANAGERIAL, AND FINANCIAL CAPABILITY.—The Administrator may provide assistance to increase the technical, managerial, and financial capability of an eligible entity receiving a grant under this section if the Administrator determines that the eligible entity lacks appropriate technical, managerial, or financial capability and is not receiving such assistance under another Federal program.

(g) COST SHARING.—Before providing a grant to an eligible entity under this section, the Administrator shall enter into a binding agreement with the eligible entity to require the eligible entity—

- (1) except as provided in subsection (l)(5) and subject to subsection (h), to pay not less than 10 percent of the total costs of the project or activity, which may include services, materials, supplies, or other in-kind contributions;
- (2) to provide any land, easements, rights-of-way, and relocations necessary to carry out the project or activity; and
- (3) to pay 100 percent of any operation and maintenance costs associated with the project or activity.

(h) WAIVER.—The Administrator may waive, in whole or in part, the requirement under subsection (g)(1) if the Administrator determines that an eligible entity is unable to pay, or would experience significant financial hardship if required to pay, the non-Federal share.

(i) LIMITATION ON USE OF FUNDS.—Not more than 4 percent of funds made available for grants under this section may be used to pay the administrative costs of the Administrator.

(j) STATE RESPONSE TO CONTAMINANTS.

- (1) IN GENERAL.—The Administrator may, subject to the terms and conditions of this section, issue a grant to a requesting State, on behalf of a community described in subsection (c)(2), so the

State may assist in, or otherwise carry out, necessary and appropriate activities related to a contaminant—

(A) that is determined by the State to—

(i) be present in, or likely to enter into, a public water system serving, or an underground source of drinking water for, that; and

(ii) potentially present an imminent and substantial endangerment to the health of persons; and

(B) with respect to which the State determines appropriate authorities have not acted sufficiently to protect the health of such persons.

(2) RECOVERY OF FUNDS.—If, subsequent to the Administrator’s award of a grant to a State under this subsection, any person or entity (including an eligible entity), is found by the Administrator or a court of competent jurisdiction to have caused or contributed to contamination that was detected as a result of testing conducted, or treated, with funds provided under this subsection, and such contamination violated a law administered by the Administrator, such person or entity shall, upon issuance of a final judgment or settlement and the exhaustion of all appellate and administrative remedies—

(A) notify the Administrator in writing not later than 30 days after such issuance of a final judgment or settlement and the exhaustion of all appellate and administrative remedies; and

(B) promptly pay the Administrator an amount equal to the amount of such funds.

APPENDIX C. DEFINITION OF EMERGING CONTAMINANTS

To be eligible to receive EC-SDC grant program funds, a project must be otherwise eligible and the primary purpose must be to address one or more emerging contaminants in drinking water. Projects that address any contaminant listed on any of EPA's [Contaminant Candidate Lists](#) are eligible (i.e., CCL1, 2, 3, 4, and the draft CCL5). States may request consideration of other contaminants that they find to be of concern in the state. States contemplating this are encouraged to contact EPA to discuss it prior to submitting their application.

If EPA has promulgated a [National Primary Drinking Water Regulation](#) (NPDWR) for a contaminant, then a project whose primary purpose is to address that contaminant is not eligible for funding under this appropriation, with the PFAS exception explained below.

For example, a project for which the primary purpose is to address arsenic or nitrate in drinking water is not eligible because arsenic and nitrate are regulated under the NPDWRs. EPA expects to establish a NPDWR for PFOA and PFOS. The Agency is also evaluating additional PFAS and groups of PFAS. Given stated Congressional intent of this appropriation, PFAS-focused projects will be eligible for funding under this appropriation regardless of whether EPA has established a NPDWR for that particular PFAS or group of PFAS. More information on PFAS is located here: <https://www.epa.gov/pfas>.

Legionella: Even though there are MCLGs for Legionella and viruses, and these contaminants are subject to limitations as a class through the treatment techniques under the Surface Water Treatment Rules, there are no monitoring, treatment, or notification requirements within those NPDWRs that are specific to Legionella pneumophila or the specific viruses listed on CCL5 (although systems may use coliphage for source water monitoring for ground water systems). Therefore, EPA considers Legionella pneumophila and the specific viruses listed on CCL5 to be unregulated contaminants for purposes of eligibility for the CCL. Additionally, EPA received public nomination for viruses and Legionella for the Draft CCL 5, with Legionella pneumophila receiving the highest number of nominations. Legionella pneumophila qualifies as an emerging contaminant.

****Please note that the definition of “emerging contaminants” as it applies to grant programs authorized under SDWA is different from the definition of “emerging contaminants” as it pertains to programs authorized under the Clean Water Act (CWA), including the Clean Water Indian Set Aside program.**

APPENDIX D. EXAMPLES OF ELIGIBLE ACTIVITIES

The following list include examples of activities that could be funded by the EC-SDC Tribal Grant Program. This list is not intended to represent all types of eligible activities. Activities are grouped into the following categories:

- Scoping and identification
- Testing or sampling for baseline assessment ⁷
- Research and testing
- Planning and design
- Treatment
- Source
- Storage
- Water system restructuring, consolidation, or creation
- Providing households access to drinking water services
- Technical assistance
- Public communication, engagement, and education

Category 1 –Research and Testing*
<i>Example Activities</i>
<ul style="list-style-type: none">• Research and investigations to identify the presence, source, or extent of emerging contaminant contamination in water systems or source water, including non-routine monitoring and testing• Direct technical assistance to public water systems (of any size) and respective source water resources with emerging contaminants and treatment problems, which could lead to requests for grant funding• PFAS and other emerging contaminants project pre-development activities (technical and engineering expert engagement and planning, partnership development with community-based organizations that have experience conducting community outreach)• Provisions to provide household water quality testing, including testing for unregulated contaminants• Technical assistance for eligible systems to diagnose emerging contaminants problems at their water systems• Post-remediation testing to verify whether contaminant(s) are still present after removal actions have been completed• Supplying water test kits and instructions to households• Upgrading Supervisory Control and Data Acquisition (SCADA) system to aid with the detection of emerging contaminants• Pilot testing for treatment alternatives

⁷ This includes the development of biochemical markers that complement the toxicity profile of these contaminants and highlight the need for further research on ECs and their implications, and the regulations required to protect human health, etc.

- Conducting initial, special (non-routine/non-compliance) testing to establish a baseline understanding of a contaminant of concern or operation of newly-used technology
- Purchase of lab equipment and materials, including equipment that is shared/rotated among public water systems, is an eligible capital expense to fully assess the potential for emerging contaminants impacting the public water system and/or source

*Research and testing activities do not need to find emerging contaminants to be eligible. Efforts undertaken to determine whether emerging contaminants are present are eligible regardless of the findings.

Category 2 – Planning and Design to Address Emerging Contaminant(s)

Example Activities

- Developing emerging contaminant action plans
- Preliminary engineering reports
- Alternatives analyses
- Preliminary and final design
- Climate and cybersecurity risk assessment to address gaps that may increase levels of emerging contaminant exposure due to the prevalence of such actions as extreme weather events or public water system interruptions that may cause unintended threats to source waters and/or water treatment systems
- Energy efficiency analyses
- Source water protection plans and plan updates
- Environmental and archaeological review, including the costs to hire a cultural resources management firm if required based upon archaeological or historic issues discovered during the environmental review process
- Capacity building, administrative support, technical assistance, training, outreach, reports/studies, tools, and other activities
- Permit fees

Category 3 – Treatment to Address Emerging Contaminant(s)

Example Activities

- Build new treatment facilities with emerging contaminant removal capability
- Upgrade existing treatment facilities to add new treatment processes such as activated carbon, ion exchange, and reverse osmosis
- Treatment or protection measures against emerging contaminants in source water
- Development of a new source (i.e., new/replacement well or intake for a public water system) that addresses an emerging contaminant issue

Category 4 – Source Water Activities Related to Emerging Contaminant(s)

Example Activities

- Source exploration and new source development
- Source water protection activities (e.g., developing source water protection plans, well abandonment, etc.)
- Testing water sources through the installation of monitoring wells, equipment, or mapping software to analyze whether or not specifically funding actions/projects have remediated contaminant issue

<ul style="list-style-type: none"> • Source water impacted by emerging contaminants, aquifer storage and recovery (ASR) system for water storage (e.g., part of a reclaimed water system), including wells, pumps, pipes, and wellhead structures • Implementation of voluntary source water protection activities in delineated drinking water source areas (as defined in SDWA Section 1453) to mitigate EC • Implementing protection measures to treat against contamination-impacted source water, or contaminated land and industrial sources that may impact source water, where it is found to be the most cost-effective alternative to respond to and alleviate a vulnerability that would substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water • Construction of an extensive water transmission and distribution system that consolidated several smaller public water systems where the source water was impacted by harmful algal blooms and other contaminants, into one regional entity, including areas without public water previously
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Category 5 – Storage
<i>Example Activities</i>
<ul style="list-style-type: none"> • New storage or replacement/rehabilitation of existing structures to continue to maintain compliance and protect public health by preventing microbiological contaminants from entering a public water system • Development of supplemental treatment to finished water storage facilities as a protective distribution “barrier” that prevents contamination of water • Animal control services to mitigate bacteria and pathogen contamination • Aquifer storage and recovery (ASR) system for water storage (e.g., part of a reclaimed water system)

Category 6 – Water System Restructuring, Consolidation, or Creation**
<i>Example Activities</i>
<ul style="list-style-type: none"> • Planning, negotiations, and public processes necessary to support restructuring, consolidation, partnership, or new system creation • Administrative restructuring • Consolidation with another water system that does not have emerging contaminants present or has removal capability • Creation of a new community water system to address unsafe drinking water provided by individual (i.e., privately-owned) wells or surface water sources • Creation of a Source Water Protection Partnership <p><i>**Activities that result in restructured, consolidated, or regionalized systems are eligible even if the water system with which the recipient water system partners or consolidates does not serve a community meeting the definition of small or disadvantaged, or the newly-consolidated/regionalized system does not serve a community meeting the definition of small or disadvantaged. Activities resulting in the elimination of a water system serving a small and/or disadvantaged community are eligible.</i></p>

Category 7 – Providing Households Access to Drinking Water Services
<i>Example Activities</i>

- Connection to an existing water system without emerging contaminant contamination
- Point-of-Use / Point-of-Entry devices that are certified by a third-party using science-based test methods for the removal of contaminants of concern, as a temporary, interim measure completed by recipient of the grant funding while determining whether to connect to an existing PWS or create a new water system
- Investments necessary for providing accurate and current information about the need for filtration and filter safety, including proper use and maintenance practices

Category 8 – Technical Assistance

Example Activities

- Technical assistance to help PWSs plan, develop, administer, or perform any other eligible activity or use
- Staff training on operation of new equipment or implementation of new practices
- Implementation of TMF surveys for the determination of small system capacity
- Hiring of staff to administer and support otherwise eligible work
- Development of contracts for services such as preliminary engineering
- Assistance in conducting engineering evaluations of proposed work
- Local contractor training on emerging contaminant projects, as part of a construction contract
- Hiring of staff, nonprofit organizations, or regional, interstate, or municipal entities to assist the system and/or community. The form of that assistance is flexible and could include, but is not limited to, outreach, technical evaluation of drinking water solutions, technical evaluation of contaminated land and industrial sources that may impact source water, preparation of applications, or preliminary engineering reports
- Hiring staff/contracting with third-party service providers to assist with Federal requirement compliance

Category 9 – Public Communication, Engagement, and Education

Example Activities

- Conducting community stakeholder meetings.
- Shared decision-making processes.
- Establishing public information and reporting web portals.
- Educational support to agencies and partners.
- Development of educational materials and programs.
- Advisory councils/committees to provide research opportunities and mechanisms to improve understanding of emerging contaminants.

Eligible Workforce Development Activity Examples

Workforce development activities are eligible as a supplement to any other eligible activity. The list below provides examples of eligible workforce development activities:

- Water System A receives funds to install a new treatment system, with which their operator is unfamiliar. They may use funds to train their operator(s) in the operation of the system.

- Company B may be contracted to conduct testing and research to identify the presence and extent of contamination. As part of their funded work, they may train an apprentice in the methods and practices necessary to complete the work, or they may host a class from a local technical training program to discuss the project and practices. The added costs associated with apprentice training or introduced inefficiencies from hosting a class are eligible for funding.
- Company C may be contracted to install a new treatment system. They may train a new employee on the methods and skills required necessary to perform this work.
- Water System D receives funds to develop a new source and pump station. They previously had one certified operator, but operational requirements now make it necessary to have two operators. They may use a portion of funds to cover the training and certification of a local resident to be a new operator.
- Regions E uses a portion of its grant funds to host a water careers training event at a high school or community college serving the community that is receiving funds to complete the EC project.