

DRINKING WATER INFRASTRUCTURE GRANTS – TRIBAL SET-ASIDE PROGRAM
EMERGING CONTAMINANTS – SMALL OR DISADVANTAGED COMMUNITIES
TRIBAL GRANT PROGRAM

U.S. Environmental Protection Agency, Region 8
Regional Implementation Manual

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U.S. Environmental Protection Agency, Region 8
Drinking Water Infrastructure Grants Tribal Set Aside Program
Emerging Contaminants in Small or Disadvantaged Communities Tribal Program
Regional Implementation Manual

I. Introduction

The U.S. Environmental Protection Agency, Region 8 (EPA or the Region), is pleased to issue this Regional Implementation Manual (manual) for applying for assistance from the Drinking Water Infrastructure Grant Tribal Set-Aside (DWIG-TSA) programs and the Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) Tribal program. These programs provide funding for federally recognized Tribes within Region 8 (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming) for public drinking water system projects.

This manual describes the process Region 8 intends to use to select projects utilizing new Bipartisan Infrastructure Law (BIL) DWIG-TSA Emerging Contaminants, DWIG-TSA Lead Service Line Replacement funds, and Emerging Contaminants in Small or Disadvantaged Communities funds for drinking water projects. The manual also details eligible uses of funds and criteria for project selection. These funds are exempt from competition under EPA [Policy for Competition of Assistance Agreements](#) (EPA Order 5700.5A1), Section 6(c)(2).

The Region plans to fund selected projects with a direct grant agreement between the EPA and the eligible entity. Other Tribal funding from the annual Base and BIL General Supplemental programs will continue to fund projects from the Indian Health Service (IHS) Sanitation Deficiency System (SDS) list through interagency agreements between the EPA and the IHS. Tribes requesting that IHS administer a project on their behalf must work with their IHS office for project inclusion on the SDS list. The EPA will verify that projects selected for funding through this direct grant program are not included on the IHS SDS list to avoid duplicative effort.

The Region may refer construction projects or lead service line replacement projects to IHS for inclusion on the SDS list.

The Region expects to receive approximately \$4 million to address emerging contaminants in drinking water and over \$7.5 million to replace lead service lines (and associated activities directly connected to the identification, planning, design, or replacement of lead service lines), each year, through FY2026.

Assistance for the DWIG-TSA program will be awarded under Section 1452(i) of the Safe Drinking Water Act, 42 U.S.C. § 300j-12, and Infrastructure Investment and Jobs Act (IIJA) (PL 117-58). The Assistance Listing Number (ALN), formerly known as Catalog of Federal Domestic Assistance (CFDA), is 66.468.

Assistance for the EC-SDC Tribal program will be awarded under Section 1459A of the Safe Drinking Water Act, 42 U.S.C. §300j-19a, and Infrastructure Investment and Jobs Act (IIJA) (PL 117-58). The Assistance Listing Number (ALN), formerly known as Catalog of Federal Domestic Assistance (CFDA), is 66.442.

DISCLAIMER: This document identifies internal agency policies and procedures for EPA Region 8 employees in selecting projects seeking assistance from the DWIG-TSA or the EC-SDC programs. It is intended to improve the internal management of EPA Region 8 and provide transparency on EPA’s selection process for projects under these grant programs. This Policy does not change or substitute for any law, regulation, or any other legally binding requirement and is not legally enforceable. It is not binding and does not create a right or benefit, substantive or procedural, enforceable at law or in equity, against the agency, its officers or employees, or any other person.

II. Program Overview

President Biden signed the Infrastructure Investment and Jobs Act of 2021 (P.L. 117-58), also referred to as the Bipartisan Infrastructure Law (BIL) on November 15, 2021. The BIL’s investment in the water sector is nothing short of transformational. It includes more than \$50 billion to the 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.

The majority of the BIL funding will flow through the Clean Water and Drinking Water State Revolving Funds (SRFs) with approximately \$868 million set-aside and dedicated to Tribal water projects over fiscal years 2022-2026.

Among its provisions, the BIL also provides a total of \$5 billion for the Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) grant program, which focuses on addressing emerging contaminants—including perfluoroalkyl and polyfluoroalkyl substances (PFAS)—in small or disadvantaged communities finished drinking water and/or source water. An estimated \$100 million in EC-SDC funds will be dedicated to Tribal water projects in FY22 – FY26.

A. DWIG-TSA Program

On May 27, 2022, the EPA’s Office of Water issued [Implementation of the Tribal Water Infrastructure Appropriations in the Bipartisan Infrastructure Law Memo \(the memo\)](#). The memo provides guidelines on how the agency will allocate and administer DWIG-TSA funds appropriated under the BIL.

Regions are given flexibility in project selection but must ensure that the selection process meets the requirements of SDWA Section 1452(i)(2), which state that funds “shall be used to address the most significant threats to public health associated with public water systems that serve Indian Tribes.” Project selection should also prioritize projects that meet, to the maximum extent practicable, the requirements listed in Section 1452(b)(3)(A) of the SDWA, as shown below, and the additional requirements outlined in [national guidance \(Drinking Water Infrastructure Grants-Tribal Set-Aside Program, Revised Guidelines\)](#).

SDWA Section 1452(b)(3)(A) states that funded projects should:

- (i) address the most serious risk to human health;
- (ii) are necessary to ensure compliance with the requirements of this subchapter; and

(iii) assist systems most in need on a per household basis.

DWIG-TSA Lead Service Line Replacement Funding

Projects or activities eligible for funding must be otherwise DWIG-TSA eligible and be a lead service line replacement project or associated activity directly connected to the identification, planning, design, or replacement of lead service lines. Any funded project involving the replacement of a lead service line must replace the entire lead service line, not just a portion, unless one portion has already been replaced or is concurrently being replaced with another funding source.

DWIG-TSA Emerging Contaminants Funding

Under this appropriation, projects must be otherwise DWIG-TSA eligible, and the primary purpose must be to address emerging contaminants in drinking water. Given the clear Congressional intent that these funds be focused on PFAS, Region 8 will actively seek PFAS-focused projects. However, Region 8 will have the flexibility to fund projects for any contaminant listed in all final Contaminant Candidate Lists (CCLs), including CCLs 1-5, and any others that become final during the project period.

B. EC-SDC Tribal Grants Program

The new [EC-SDC Tribal grant program](#) focuses on assisting public water systems in small Tribal communities to identify and/or remediate challenges related to PFAS and other emerging contaminants. Water systems receiving assistance through EC-SDC Tribal grants funded by this BIL appropriation may support a community described in Section 1459A(c)(2) of SDWA. Public water systems that serve a population of less than 10,000 individuals and serve residents belonging to a federally recognized Tribe may qualify for assistance under the grant program. Assistance through the grant program is subject to the availability of appropriated funds.

Table 1: Summary of Funding Programs Included in this Document.

Grant Program	DWIG-TSA Lead Service Line Replacement	DWIG-TSA Emerging Contaminants	Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC)
Purpose	EPA’s DWIG-TSA Lead Service Line Replacement Program is a component of the DWIG-TSA Program, which funds improvements to public water systems (PWS) serving Tribes. The 2021 Bipartisan Infrastructure Law (BIL) provided additional dedicated funding through the	EPA’s DWIG-TSA Emerging Contaminants Program is a component of the DWIG-TSA Program , which funds improvements to public water systems (PWS) serving Tribes. The BIL Law provided additional dedicated funding through the DWIG-TSA specifically for projects and activities that address perfluoroalkyl and polyfluoroalkyl substances	The EC-SDC Tribal Grant Program funds projects and activities that address emerging contaminants, including per- and polyfluoroalkyl substances (PFAS), in drinking water systems serving small Tribal communities.

	DWIG-TSA specifically for lead service line identification and replacement	(PFAS) and other emerging contaminants (EC) in drinking water.	
Eligible Entities (Who can receive funding?)	Any federally recognized Tribe within Region 8	Any federally recognized Tribe within Region 8	Eligible entities are privately- and publicly-owned community water systems and non-profit non-community water systems that serve small (under 10,000 individuals) Tribal communities within Region 8
Eligible Projects	Funds may be used for lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead service lines.	Funds may be used for projects and activities that address emerging contaminants in drinking water with a focus on PFAS. Eligible types of activities include: <ol style="list-style-type: none"> 1. EC sampling and testing, 2. Project planning and design, 3. Upgrades to an existing facility, 4. Development of a new drinking water source. 	Funds may be used for projects and activities that address emerging contaminants in drinking water with a focus on PFAS. Eligible types of activities include: <ol style="list-style-type: none"> 1. EC testing and sampling, 2. Project planning and design, 3. Upgrades to an existing facility, 4. Development of a new drinking water source. 5. Source water protection planning and source water protection project implementation.
Special Eligibility Requirements (This is not a comprehensive list of eligibility requirements. Additional requirements are described throughout this document.	The following three threshold requirements must be met prior to receiving project funds (see page 12 for more details on each requirement): <ol style="list-style-type: none"> 1. Technical, managerial and financial capacity; 2. Systems compliant with the SDWA; 3. Project readiness. 	The following three threshold requirements must be met prior to receiving project funds: (see page 12 for more details on each requirement): <ol style="list-style-type: none"> 1. Technical, managerial, and financial capacity; 2. Systems compliant with the SDWA; 3. Project readiness. 	None

Assistance Listing Number (aka CFDA)	66.468	66.468	66.442
Link to National Program Implementation Information	https://www.epa.gov/tribaldrinkingwater/drinking-water-infrastructure-grants-tribal-set-aside-program#implementation	https://www.epa.gov/tribaldrinkingwater/drinking-water-infrastructure-grants-tribal-set-aside-program#implementation	https://www.epa.gov/tribaldrinkingwater/emerging-contaminants-small-or-disadvantaged-communities-ec-sdc-tribal-grant#5

C. Link to EPA Strategic Plan

The activities to be funded must support the EPA’s [FY 2022 – 2026 Strategic Plan](#). Programs covered in this document support 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.”

III. Award Information

EPA Region 8 expects to receive approximately \$4 million to address emerging contaminants (DWIG-TSA and EC-SDC program funding combined) in drinking water and over \$7.5 million to investigate and remove lead service lines, each year, through FY2026. Selected projects will be awarded as a grant to the eligible entity for completion of the proposed project.

EPA reserves the right to partially fund proposals by funding discrete activities, projects, or phases of proposals. Funding for project proposals is not guaranteed and is subject to the availability of funds. EPA is not bound by any estimates in this manual and reserves the right to reject all proposals or applications and make no awards.

IV. Cost Share

A. DWIG-TSA Lead Service Line Replacement and Emerging Contaminants Programs

There is no cost share requirement for the DWIG-TSA Lead Service Line Replacement and DWIG-TSA Emerging Contaminants programs. Although these programs do not require a statutory cost share, the program does enforce cost sharing when one or more projects provide beneficial use to commercial populations or otherwise meet commercial or non-Tribal interests.

If your project will not wholly serve Tribal residents, please provide the appropriate water use data from all populations in the affected project area for the appropriate cost share determination. Funding can only be provided for systems if they serve a Tribal residential population, and the extent of funding must be scaled to the proportion of water served to residential users.

B. EC-SDC Program

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

V. Eligibilities

Only federally recognized Indian Tribes (for DWIG-TSA program funds) or public water systems serving Tribal communities (for EC-SDC program funds) within EPA Region 8 may submit proposals and are eligible to receive grants unless they have been deemed ineligible to receive federal funds, including if any federal agency or department or the Region determines that the Tribe or public water system does not have the necessary capacity to successfully complete the project.

If a Tribe or public water system receives a grant, the grant recipient may issue a contract or subaward using grant funds to carry out the project. In such cases, the recipient must comply with the [federal procurement requirements](#), [federal regulations pertaining to subawards](#), and the [EPA Sub-award Policy](#). The EPA grant recipient is ultimately responsible to EPA for proper management of the funds. The plan for the recipient's use of the grant funds must be identified in the grant award document. The grants must be awarded and managed as any other assistance agreement.

A. DWIG-TSA Lead Service Line Replacement and Emerging Contaminants Programs

Only federally recognized Indian Tribes are eligible to receive grants under the DWIG-TSA programs for projects at community water systems or non-profit, non-community water systems.

B. EC-SDC Program

Entities eligible to receive funds from the Tribal allotment of this grant program are limited to public water systems that serve a population of less than 10,000 individuals and serve residents belonging to a federally recognized Tribe. 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.

VI. Water System Eligibility Factors

Only public water systems that are community water systems or non-profit, non-community water systems are eligible to receive funding.

- A public water system is defined as an entity that supplies water for human consumption and has at least 15 service connections or regularly serves at least 25 individuals for at least 60 days annually. It may include collection, treatment, storage, and distribution facilities.
- A community water system means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

- A non-community water system means any public water system that is not a community water system.

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 provided they serve Tribal homes.

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 take into account the Tribal proportion of the population to benefit from the project. 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 to fund the entire cost of the project. In this case the Region may fund the project proportionally according to the Tribal population served. Region 8 will evaluate these situations on a project-by-project basis.

Federally Owned Systems: The grant programs cannot be used to fund drinking water systems owned or operated by the federal government for the benefit of a Tribe. Therefore, these systems are not eligible.

System Location: The SDWA does not restrict funding to projects that are within reservations or on Tribally-owned land. The Act only requires that the system serve an Indian Tribe.

Commercial Properties: Funding of systems serving solely commercial or industrial uses are not eligible under these programs. Funding can only be provided for systems if they serve a Tribal residential population and the extent of funding must be scaled to the proportion of water served to residential users.

VII. Eligible Use of Funds

A. DWIG-TSA Emerging Contaminants Program

The BIL states that “funds provided under this paragraph in this Act shall be to address emerging contaminants in drinking water with a focus on perfluoroalkyl and polyfluoroalkyl substances through capitalization grants under section 1452(t) of the Safe Drinking Water Act for the purposes described in section 1452(a)(2)(G) of such Act.”

Under this appropriation, projects must be otherwise DWIG-TSA eligible, and the primary purpose must be to address emerging contaminants in drinking water. Given the clear Congressional intent that these funds be focused on PFAS, Region 8 will actively seek PFAS-focused projects. However, the Region has the flexibility to fund projects for any contaminant listed on current EPA [Contaminant Candidate Lists](#) (CCLs), and future CCLs that become finalized during the project period of a grant.

Projects with a primary purpose to address a contaminant for which EPA has promulgated a [National Primary Drinking Water Regulation](#) (NPDWR) are not eligible for funding under this appropriation, with the exception of PFAS. For example, a project whose primary purpose is to address arsenic or nitrate in drinking water is not eligible because arsenic and nitrate are regulated under the NPDWRs.

Additional information on the BIL Emerging Contaminants funding, with examples of eligible projects and activities to be funded under this DWIG-TSA appropriation, can be found in the [BIL SRF Implementation Memo](#).

B. DWIG-TSA Lead Service Line Replacement Program

The BIL states that “the funds provided under this paragraph in this Act shall be for lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead service lines.”

Projects or activities eligible for funding under this appropriation must be otherwise DWIG-TSA eligible and be a lead service line replacement project or associated activity directly connected to the identification, planning, design, or replacement of lead service lines. Any project funded under this appropriation involving the replacement of a lead service line must replace the entire lead service line, not just a portion, unless one portion has already been replaced or is concurrently being replaced with another funding source.

To define a “lead service line” for the purpose of this appropriation, EPA will use an amended version of the [Lead and Copper Rule Revisions](#)’ regulatory definition, which is:

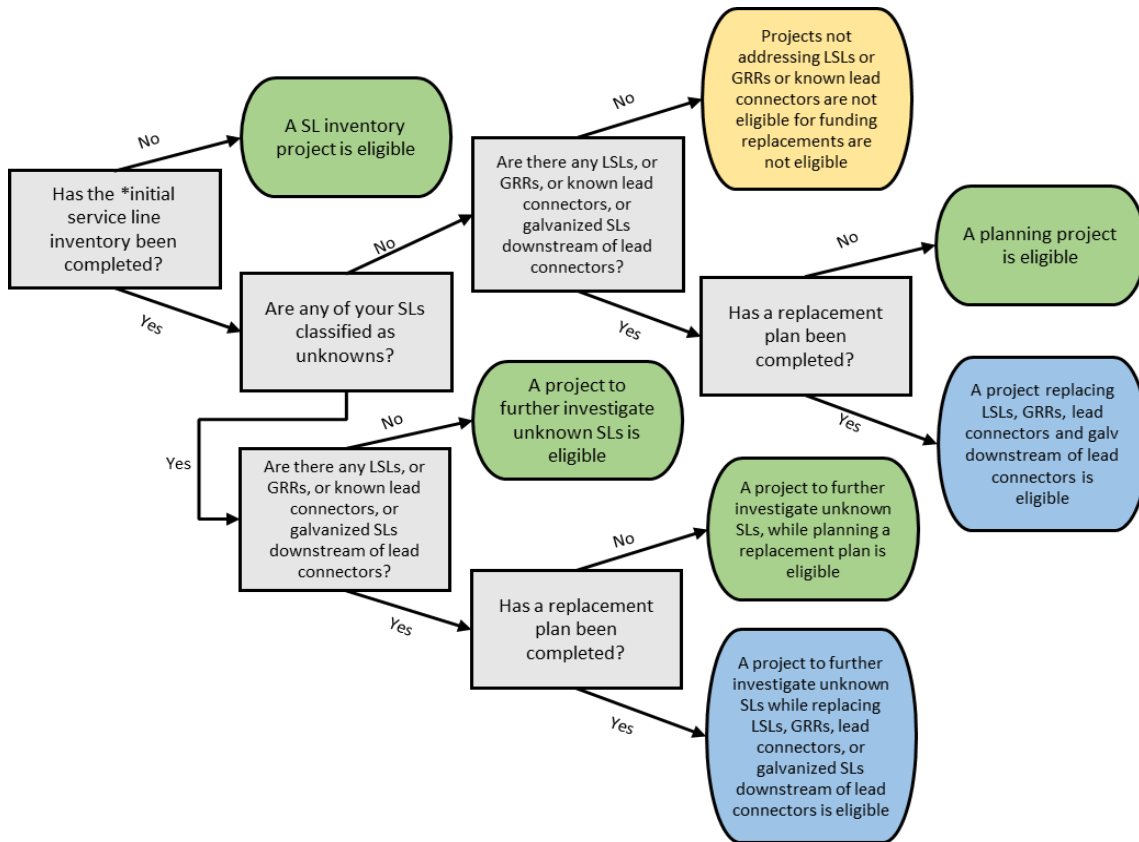
*...a service line made of lead, which connects the water main to the building inlet. A lead service line may be owned by the water system, owned by the property owner, or both.
For the purposes of this subpart, a galvanized service line is considered a lead service line if it ever was or is currently downstream of any lead service line or service line of unknown material.
If the only lead piping serving the home or building is a lead gooseneck, pigtail, or connector, and it is not a galvanized service line that is considered an LSL the service line is not a lead service line.*

EPA has expanded the eligible uses beyond the definition above to also include the replacement of lead-containing goosenecks, pigtails, and connectors as eligible expenses, whether standalone or connected to a lead service line.

Tribes should include mitigation measures in the design of lead service line replacement projects such as, temporary pitcher filters or point-of-use (POU) devices certified by an American National Standards Institute accredited certifier to reduce lead concentrations in drinking water during or for a short time period after lead service line replacement projects. Such mitigation measures are eligible activities for DWIG-TSA funds.

Additional information on BIL lead service line replacement funding, with examples of eligible projects and activities to be funded under this DWIG-TSA appropriation, can be found in the [BIL SRF Implementation Memo](#).

Figure 1: Eligible Uses of Lead Service Line Replacement Funds



***Initial service line inventory** - Refers to those requirements set forth in CFR 141.81(a)(1)-(4) of the LCRR
Connector - A short section of pipe typically no longer than 2 ft that connects the service line to other outlets
Galv – Galvanized Iron or steel
GRR – Galvanized Requiring Replacement
LCRR - Revised Lead and Copper Rule
LSL – Lead Service Line
SL – Service Line
Unknown – Service line material is classified as unknown, due to insufficient records.

C. EC-SDC Program

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
- 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

A list of example activities that could be funded under each category can be found in [EC-SDC – Tribal Grant Program Implementation Manual](#). These lists are not intended to represent all types of eligible activities.

Workforce development activities are eligible as a supplement to any other eligible activity: The BIL 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.

VIII. Ineligible Use of Funds

Grant funding may not be used for the following activities. Please note that this list is intended to be illustrative and is not a comprehensive list of all ineligible activities. Further information on ineligible activities can be found in DWIG-TSA and EC-SDC program guidance.

- Compliance Monitoring.
- Operations and maintenance.
- Projects intended primarily for future growth.
- Construction or rehabilitation of dams.
- Activities needed primarily for fire protection.
- Replacement of premise plumbing.
- Projects that serve mainly commercial uses, including livestock watering.
- Activities that have received assistance from the corresponding funding program's allotment to a state (for example, one project may not receive funding from both the EC-SDC Tribal program as well as the EC-SDC state program).
- 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.
- Funding for bottled water.
- Remediation of contaminated groundwater or underlying aquifers.
- Costs associated with land acquisition are ineligible under the EC-SDC grant program. Land acquisition is ineligible under the DWIG-TSA programs unless the land is integral to the project and is from a willing seller (§1452(k)(1)(A)(i)).
- Corrosion control studies, corrosion control infrastructure, and water meters are not eligible under the DWIG-TSA Lead Service Line Replacement program but are eligible under the DWIG-TSA Base program and BIL General Supplemental funding.

- Costs that are unallowable (e.g., lobbying and alcoholic beverages) under [2 CFR 200 Subpart E – Cost Principles](#).

IX. Quality Assurance Requirements

Tribes must ensure that environmental information produced and used are of known and documented quality that are suitable for their intended use. This requirement includes the need for Quality Assurance Project Plans (QAPP) for lead service line inventories.

<https://www.epa.gov/quality/frequent-questions-about-epas-quality-program>

<https://www.epa.gov/quality/managing-quality-environmental-data-epa-region-8>

X. Threshold Requirements (applicable to DWIG-TSA programs)

The requirements of SDWA Section 1452(a)(3)(A), and the 2013 national guidelines establish three threshold requirements that must be met by a water system serving a Tribe prior to award of DWIG-TSA project funding:

- Technical, managerial, and financial capacity;
- Compliance with the SDWA; and
- Project readiness.

Technical, Financial, and Managerial Capacity

The DWIG-TSA Program only funds drinking water infrastructure projects at public water systems that have the technical, managerial and financial capacity to ensure compliance with the requirements of the SDWA per Section 1452(a)(3)(A)(i). EPA has established the following criteria to ensure this requirement is met by the DWIG-TSA Program. Prior to the award of DWIG-TSA funds, the public water system receiving the improvement(s) must demonstrate that it has:

a. **Certified Operator:** An operator in charge is certified at the appropriate level to operate the public water system, including the infrastructure proposed in the project. Operator certification helps protect human health and the environment by establishing minimum professional standards for the operation and maintenance of public water systems. A Tribe or the water system serving the Tribe must provide copies of the operator’s certification prior to award of DWIG-TSA funds. The certification required to meet this requirement can be issued from EPA, EPA Approved Providers or a state.

b. **Annual Operating Budget:** An annual operating budget that shows income, operation and maintenance costs, and short-lived asset reserves. A key element in demonstrating public water system managerial and financial capacity is a documented understanding of the revenue and expenditures that allow a system to be operated and maintained over the long term. EPA requires that an annual operating budget with information on income from user rates or other sources, operation and maintenance costs and short-lived asset reserves for the public water system serving the Tribe be provided prior to award. The recommended details to include in an annual operating budget are included in Section 6.f. “Annual Operation Budget” of the Preliminary Engineering Report (PER) requirements document in Appendix J of the [DWIG-TSA National Guidelines](#). An annual operating budget is also required when a Tribe requests funding for PER development to demonstrate the public water system serving the Tribe and considering improvements through DWIG-TSA funds has an

operating budget. This operating budget only needs to consider the existing infrastructure under operation by the public water system. Changes to the operating budget that may result from future infrastructure improvements should be reflected in the PER.

c. Accounting System: A utility should demonstrate that they have an accounting system that records, tracks and reports the public water system's revenues and expenses separate from other program activities. The Infrastructure Task Force cites this as an attribute of a sustainable utility, where utility funds are managed separately from general Tribal funds. The ability to track operating funds is an important element in demonstrating a utility's managerial and financial capacity. Expenses or revenues associated with the utility should be managed in a separate accounting system or tracked through separate line items within the Tribe's accounting ledger. To meet DWIG-TSA Program threshold requirements, Tribes must document that the accounting system for the public water system receiving DWIG-TSA funds has the capability to record, track and report on the program specific financial information independently from other programs. As part of the project award Region 8 will require a written certification from the governing body of the public water system that their accounting system meets these requirements. An example certification letter is included in Appendix B.

Compliance with SDWA

The primary purpose of the DWIG-TSA Program is to support the improvement of drinking water infrastructure that will facilitate compliance with the SDWA. According to the SDWA Section 1452 (a)(3)(A)(ii), DWSRF funds, including those allotted to the DWIG-TSA Program, cannot be awarded to existing public water systems that are in significant noncompliance (SNC) with any requirements of the National Primary Drinking Water Regulations. In December 2009, the Office of Enforcement and Compliance Assurance (OECA) released an Enforcement Response Policy (ERP) that provides a new enforcement targeting approach that identifies all unaddressed violations at a public water system. The new approach replaces the prior strategy which focused on water systems in SNC on a rule-by-rule basis. The ERP is supported by the Enforcement Targeting Tool (ETT), which assigns a point value to individual violations at each system to prioritize public water systems with the most serious, numerous or long-lasting unaddressed violations for possible enforcement actions.

The Director of the Office of Groundwater and Drinking Water (OGWDW) issued a memo on March 30, 2012, instructing that the term "significant noncompliance" be interpreted for the purpose of the DWSRF Program implementation as systems with ETT scores of 11 or greater. This means assistance from the DWIG-TSA Program may not be provided for projects at systems that have an ETT score of 11 or greater prior to award, unless the project will directly address existing violations that impact the ETT score. It should be noted that OECA requires public water systems with an ETT score of 11 or higher to return to compliance within six months of reaching that score, or OECA will issue an enforcement order to correct all violations at the system.

To evaluate this proposal, Region 8 will review the most recent Enforcement Targeting Tool to determine the ETT score for applicable PWSs that would be served in the proposal.

Project Readiness

Projects that have not been fully evaluated prior to funding may not provide the most feasible and cost-efficient solution to address public health risks and may also result in future construction delays.

To improve project readiness to ensure that health risks are adequately addressed, a project submitted for funding must have a completed PER that follows the standardized template for PERs developed by the Infrastructure Task Force, [DWIG-TSA National Guidelines](#), Appendix J. The standardized PER makes it easier for Tribes to receive funding from more than one federal source and simplifies coordination between federal agencies.

The PER should clearly describe the public water system's current situation, include an analysis of alternatives and propose a specific course of action from an engineering perspective. The analysis of alternatives must compare construction costs and operation and maintenance costs. A project that has been vetted through an analysis of alternatives and is ready for implementation ensures that funds are awarded to projects that are ready to proceed to construction.

DWIG-TSA funds will not be awarded without the submission of a PER, except for some projects with limited scope of work. Region 8 may award projects to develop a PER if the project(s) receiving funds for development of a PER are eligible infrastructure projects under the DWIG-TSA Program.

XI. Funding Prioritization and Ranking Criteria

Projects may be evaluated and ranked separately for each program according to the following criteria. While ensuring that the highest health risks are addressed first, EPA may also consider availability of funds and geographic distribution of funds in project selections.

A. DWIG-TSA Emerging Contaminants and EC-SDC Programs

Region 8 proposes to use the same methodology to prioritize projects for both the DWIG-TSA Emerging Contaminants funding and the Emerging Contaminants in Small and Disadvantaged Communities Tribal grant programs since the eligible activities for these programs are similar.

Tribal utilities may not have been extensively sampled to identify the existence of emerging contaminants on the CCL, and Region 8 will focus first-year funds on projects to identify contaminants and support preliminary engineering activities that will lead to well-scoped and ready-to-fund projects in the future fiscal years of this program.

The criteria below reflect Region 8's prioritization of projects based on public health risks in order of decreasing priority as the categories increase. It prioritizes per- and polyfluoroalkyl substances (PFAS) projects first, followed by projects addressing other contaminants on the Drinking Water [Contaminant Candidate Lists](#) (CCLs), and emerging contaminants that present the greatest public health risks.

Table 2: Prioritization for Emerging Contaminants Projects

High Priority	Category 1	Projects with activities that addresses the removal of PFAS in systems that have exceeded a Maximum Contaminant Level (MCL)/Regulatory Standard or health advisory level for any PFAS compound ¹ . This includes: 1A: Project activities that reduce PFAS in systems that exceed an MCL, or 1B: Project activities that reduce PFAS in systems that exceed a health advisory level
	Category 2	Projects that include baseline sampling for any emerging contaminant on any CCL in drinking water.
	Category 3	Projects that include activities that remove any emerging contaminant on any CCL (excluding PFAS) from systems that exceed a health advisory level. This includes: 3A: Project activities that support the removal of any non-PFAS emerging contaminant of the CCL in systems that have detected levels of that contaminant to be twice the advisory and above, or 3B: Project activities that support the removal of any non-PFAS emerging contaminant of the CCL in systems that have detected that contaminant to be 1.5 times the advisory level and above, or 3C: Project activities that support the removal of any non-PFAS emerging contaminant of the CCL in systems that have detected levels of that contaminant to be above the advisory level.
	Category 4	Projects that include activities that remove one or more emerging contaminants in systems with detections where there is not an MCL/Regulatory Standard or a health advisory level, but detection constitutes a health risk ² . This includes systems that have detected levels of: 4A: Any PFAS contaminant, or 4B: Any other emerging contaminant on the most current CCL list, or 4C: Any other EC not on the current CCL list, or 4D: Any emerging contaminant which causes a technical, aesthetic, or cosmetic issue.
Low Priority	Category 5	Projects that include source protection activities for emerging contaminants on any CCL
	Category 6	Projects that support activities to reduce emerging contaminants in systems where detections are much lower than the MCL/Regulatory Standard or health advisory level. This includes systems that have detected levels of: 6A: Any PFAS contaminant on any of the CCLs, or 6B: Any other emerging contaminant on the most current CCL, or 6C: Any other emerging contaminant not on the current CCL, or 6D: Any EC which causes a technical, aesthetic, or cosmetic issue.

¹ <https://www.epa.gov/pfas>

² <https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations>;

<https://www.epa.gov/sdwa/secondary-drinking-water-standards-guidance-nuisance-chemicals>

B. DWIG-TSA Lead Service Line Replacement Program

Information on the presence and location of lead service lines may not be readily available to many Tribal utilities. Region 8 will initially focus on funding initial lead service line inventories leading to identification of lead service lines.

Projects may be prioritized as follows:

1. Round 1 (Year 1)
Project activities that support the completion of an initial lead service line inventory (e.g., records search) by October 16, 2024.
2. Round 2 (Year 2)
Project activities that support 100% completion of a lead service line inventory, including all confirmations of unknowns, by October 16, 2025.
3. Round 3 (Year 3)
 - a. Any remaining projects that fall under the prioritization criteria described in Round 1 and Round 2
 - b. Projects that have identified lead service lines and describe the development of a lead service line replacement plan.

C. Criteria Specific to DWIG-TSA Programs only

If a project meets the threshold requirements Region 8 may apply two additional criteria for ranking projects. They are:

- Evaluation of an applicant's ability to self-finance a project; and
- Evaluation of the project's cost efficiency.

The Regional Administrator has the ability to waive these specific criteria on a case-by-case basis. This is allowed if a Tribe and Region can demonstrate that a project provides a significant public health benefit or resolves serious compliance issues as described in Section 1452(b)(3)(A) of the SDWA and that these considerations outweigh the ranking criteria. Criteria may be applied where multiple proposals demonstrate the same health-based need.

Both of these criteria are described in further detail below.

Applicant's Ability to Self-Finance

The ability of Tribes to pay for needed projects varies widely across the country. The applicant's ability to self-finance refers to the ability of the community served by the public water system to provide funds to cover all or a portion of the cost associated with a proposed project. The limited grant funds from the DWIG-TSA Program should be used to assist public water systems that serve communities

with the greatest financial need. Therefore, the Region may elevate the priority of projects requested from public water systems that serve a community with greater need.

Communities with a median family income equal to or greater than 80% of the statewide median family income may receive lower priority. The median family income of the service area and the median family income of the state will be determined from available U.S. Census data.³

If there is reason to believe that the U.S. Census data do not provide an accurate representation of the median family income within the area to be served, the reasons will be documented, and the applicant may furnish additional information regarding such median family income. Information will consist of reliable data from local, Regional, state or federal sources, or from a survey conducted by a reliable impartial source.

Project Cost Efficiency

SDWA Section 1452(b)(3)(A)(iii) requires the DWIG-TSA Program to assist systems most in need on a per household basis. The threshold costs included in Appendix A are 50% of the IHS calculated 2019 allowable cost⁴. These figures represent the highest threshold costs allowable for drinking water facilities under the IHS approach. Projects with a unit cost per home equal to or greater than the amounts shown in Appendix A may receive a lower priority.

In accordance with DWIG-TSA program guidelines, if the project selected for funding has a unit cost equal to or greater than \$132,000 per Tribal home served, the Regional Administrator must be notified.

XII. Annual Project Solicitation and Grant Application

An annual Notice of Funding Availability (NOFA) for these programs will be provided to each Tribe for the solicitation of proposed projects. Annual Base and BIL General Supplemental Tribal program funds will continue to be provided through interagency agreements between the EPA and the IHS for projects on the SDS list. Deadlines for submission of project proposals and supporting documents will be provided in the annual NOFA. An eligible entity may submit more than one project proposal under these guidelines and each project proposal will be separately reviewed and considered for funding. Region 8 will use the information in the proposal package to place projects on a priority list using the criteria described in Section XI.

Project selections will be made 45 days from the submittal deadline. Eligible entities will be notified of selected projects that may move forward in the funding process. The number of projects selected will be dependent on the amount of funding available and the costs of the top projects. Entities must

³ <https://www.huduser.gov/portal/datasets/il/il23/FY23-Median-Attachment-State-Medians.pdf>;
<https://www.huduser.gov/portal/datasets/il/il23/Medians-Methodology-FY23.pdf>

⁴ https://www.ihs.gov/sites/dsfc/themes/responsive2017/display_objects/documents/Final_SDS_Guide_v2.pdf

submit responses to any EPA comments, a revised PER if necessary, and any additional supporting documentation or endorsement requested by EPA by the date specified in the request.

If selected, the entity will receive notification to submit a grant application via Grants.gov. Notification to apply is not a guarantee of funding. Failure to submit an application by the provided deadline will result in the funds being made available to the next highest-ranking project(s).

The grant application, workplan, and budget must be approved by the EPA Project Officer and Grants Specialist. The EPA Region 8 Award Official will make the final award determination.

XIII. Project Proposal Contents

Project proposals should include a proposed workplan, budget narrative, water system information, and supporting documentation as follows. An optional project proposal template is provided in Appendix C.

Workplan:

- Applicant Name and Address
- Contact person information – contact name, address, phone, email.
- Project Title
- Program Identification – indicate the program for which funds are being requested.
- Proposed project start and end dates.
- Project Need – Discuss why the project is necessary.
- Project Description – Summary of the overall project.
- Scope of Work – Clearly define all specific activities and tasks necessary to complete the project, discuss how the project will be managed, how performance will be measured or evaluated, and what, if any, deliverables will be provided.
- Milestone Schedule – Include each grant activity’s estimated start and end dates, interim milestones, deliverables, and project completion.
- Environmental Results/Benefits – 1) Provide linkage of project with the applicable EPA Strategic Plan goal and objective, and; 2) Provide well-defined outputs and, to the maximum extent practicable, well-defined outcomes.

Budget Narrative:

- Estimated project costs by activity component.
- Estimated project costs by category (personnel, fringe benefits, travel, supplies, equipment, contractual, construction, other, and indirects). Provide a brief explanation of each cost.

Water System Information:

- Water Utility Information – water system owner, public water system ID number, community or non-community system, for-profit or non-profit system, certification level of certified operator, project location, zip codes for the project area.
- Service Area Information - list the total population served by the public water system, the number of connections, the number and percentage of metered connections, number of Tribal

people served by the proposed project, number of non-Tribal people served by the proposed project.

- **Technical, Managerial, and Financial Capacity (TMF)** – The DWIG-TSA Program only funds drinking water infrastructure projects at public water systems that have the technical, managerial, and financial capacity to ensure compliance with the requirements of the SDWA per requirements of Section 1452(a)(3)(A)(i).

The public water system must provide the following:

- Copies of the operator’s certification
- Copy of the water system’s annual operating budget with information on income from user rates or other sources, operation and maintenance costs and short-lived asset reserves. An annual operating budget is also required when a Tribe requests funding for PER development.
- Written certification from the PWS’s governing body that it has an accounting system that records, tracks and reports the public water system’s revenues and expenses separate from other program activities. An example certification letter is included in Appendix B.

The 2013 revised national guidelines, pages 19-20, provide further details regarding TMF capacity.

- **Other Committed Funds** – Provide any other agencies that have committed funds, or if funding has been applied for with other agencies.
- **Background Information** – Provide a brief explanation of any water or energy conservation measures being taken, describe any source water or wellhead protection programs being implemented; if a consolidation project, provide the number of systems and populations being consolidated.

Tribal Government Endorsement - The proposal must be submitted with a Tribal resolution or a Tribal government endorsement of the proposal (i.e., the Tribal leader's signature on the letter transmitting the proposal).

Planning and Design /Preliminary Engineering Report (PER) , as applicable – The PER should clearly describe the public water system’s current situation, include an analysis of alternatives, and propose a specific course of action from an engineering perspective. The analysis of alternatives must compare construction costs and operation and maintenance costs. A project that has been vetted through an analysis of alternatives and is ready for implementation ensures that funds are awarded to projects that are ready to proceed to construction.

Funds may be requested for planning and design, and preliminary engineering reports as they relate to an eligible project. The outcome of the planning project must be the development of a PER that utilizes the USDA-maintained [Electronic Preliminary Engineer Report](#). Applicants for planning projects are expected to demonstrate the same technical, managerial, and financial capacity requirements.

Supporting Documentation – Lab records, photographs, etc.

XIV. Award Administration Information

The Build America, Buy America (BABA) Act requires that infrastructure projects include a term and condition that applies the Buy America preference under the following conditions:

- All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
- All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

BABA further defines infrastructure as follows: the term “infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property.

As for applicable activities, BABA applies to infrastructure projects that include construction, alteration, maintenance or repair of infrastructure within the United States. The BABA term and condition will apply regardless of whether infrastructure is the primary purpose of the assistance agreement.

<https://www.epa.gov/cwsrf/build-america-buy-america-baba>

Environmental Reviews conducted by EPA under drinking water infrastructure grants awarded directly to Tribes: Generally speaking, drinking water infrastructure grants awarded directly to Tribes are exempt from the procedural requirements of the National Environmental Policy Act (NEPA) based on the doctrine of functional equivalence. However, EPA may conduct an environmental review of a project funded under a drinking water infrastructure grant under the Agency’s Voluntary NEPA Policy. EPA makes the decision to invoke the Voluntary NEPA Policy on a case-by-case basis. In cases in which EPA conducts a voluntary NEPA analysis, the NEPA process may include public participation, mitigation measures (e.g., monitoring measures), etc. Any voluntary NEPA review must be conducted prior to award of projects for construction; however, a voluntary NEPA analysis can be funded for a planning project with the preparation of an Environmental Information Document.

Federal Flood Risk Management Standards: On May 20, 2021, President Biden signed 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). EO 13690 amends the original floodplain management standard established in 1977 by EO 11988, and was revoked by EO 13807 in August 2017, though is now reinstated. This action reestablishes the Federal Flood Risk Management Standard (FFRMS) for federally funded projects. The

FFRMS will increase the resilience of infrastructure for flooding events caused by climate disasters. The new standard went into effect in fiscal year 2022. The FFRMS applies to actions where federal funds are used for new construction, substantial improvement (i.e., projects worth more than 50% of the market value or replacement cost of the facility), or to address substantial damage to structures and facilities. If a potential grant recipient requires assistance with evaluating their water system or project with respect to this new standard, they are to reach out to their respective programmatic region for additional resources on Floodplain Management or use EPA's tools and resources available, including several that would assist with utilizing the climate-informed science approach.

Regulations governing the award and administration of grants can be found at 2 C.F.R. Parts 200 and 1500, and 40 C.F.R. Part 33.

Quarterly Progress Reports are required for all projects. Quarterly reports should describe project activities and provide the EPA Project Officer with information about project development including the status of the timeline and budget for meeting the environmental outputs and outcomes.

Federal Financial Reports (FFRs) – For grants, FFRs are required at least annually and a Final FFR must be submitted within 120 calendar days after the end date of the period of performance.

Terms and Conditions: General Grant Terms and Conditions can be found online at <https://www.epa.gov/grants/grant-terms-and-conditions>

Federal Cross-Cutting Authorities: For grants EPA awards directly to Tribes, the recipient must comply with the applicable Federal cross-cutting authorities (e.g., the National Historic Preservation Act, the Endangered Species Act, etc.) before the grant is awarded.

Greening Grants Policy: EPA has implemented Grants Policy Issuance (GPI) 17-01, *Sustainability in EPA Assistance Agreements*, that encourages voluntary efforts to incorporate sustainability practices into EPA grant funded programs and projects. When grant workplans are developed, EPA Project Officers will work with Tribal staff to identify potential ways for the Tribe to carry out EPA funded work in an environmentally sustainable way. The Policy includes numerous examples of sustainability practices, including environmentally preferable purchasing, green building, green meetings, and alternatives to travel.

XV. Agency Contacts

For general information about this program, please contact:
Rachel Walters at walters.rachel@epa.gov or call 303-312-6237.

To discuss specific information about your water system, please contact your EPA program manager.
Emerging Contaminants – Karen Simpson at simpson.karen@epa.gov or call 303-312-6449
Lead Service Lines – Jill Minter at minter.jill@epa.gov or call 303-312-6084

Appendix A - IHS Allowable per Unit Costs

Amounts as of 01/02/2019.⁵

State	50% of IHS Allowable Unit Cost
Colorado	\$50,750
Montana	\$52,250
North Dakota	\$54,000
South Dakota	\$51,250
Utah	\$50,750
Wyoming	\$52,750

⁵ https://www.ihs.gov/sites/dsfc/themes/responsive2017/display_objects/documents/Final_SDS_Guide_v2.pdf

**Environmental Protection Agency, Region 8
 Drinking Water Tribal Set-Aside Grants
 Emerging Contaminants-Small and Disadvantaged Communities Tribal Grant
 Project Proposal Template**

Directions: [See Section XIII of the Manual](#)

Applicant Information	Tribe or Water System Submitting Proposal: Entity Address:
Contact Information	Name: Title: Address: Phone Number: Email:
Project Title	
Program Identification (Check one)	DWIG-TSA Lead Service Line: DWIG-TSA Emerging Contaminants: Emerging Contaminants Small and Disadvantaged Communities:
Proposed Project Start and End Dates	
Project Need	
Project Description Summary	

Scope of Work	
Milestone Schedule	
Environmental Results Outputs Outcomes	EPA Strategic Plan Goal 5: Ensure Clean and Safe Water for All Communities, Objective 5.1: Ensure Safe Drinking Water and Reliable Water Infrastructure

Project Component Costs	<p>Estimated Total Project Cost \$</p> <p>Estimated Cost Breakdown by Project Component:</p> <table border="1" data-bbox="397 1386 1507 1638"> <thead> <tr> <th data-bbox="397 1386 641 1459"><u>Project Component</u></th> <th data-bbox="641 1386 1015 1459"><u>Estimated Component Cost</u></th> <th data-bbox="1015 1386 1291 1459"><u># Connections Benefiting</u></th> <th data-bbox="1291 1386 1507 1459"><u>Population Served</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="397 1480 641 1522">1) _____</td> <td data-bbox="641 1480 1015 1522">\$ _____</td> <td data-bbox="1015 1480 1291 1522">_____</td> <td data-bbox="1291 1480 1507 1522">_____</td> </tr> <tr> <td data-bbox="397 1533 641 1575">2) _____</td> <td data-bbox="641 1533 1015 1575">\$ _____</td> <td data-bbox="1015 1533 1291 1575">_____</td> <td data-bbox="1291 1533 1507 1575">_____</td> </tr> <tr> <td data-bbox="397 1585 641 1627">3) _____</td> <td data-bbox="641 1585 1015 1627">\$ _____</td> <td data-bbox="1015 1585 1291 1627">_____</td> <td data-bbox="1291 1585 1507 1627">_____</td> </tr> </tbody> </table>	<u>Project Component</u>	<u>Estimated Component Cost</u>	<u># Connections Benefiting</u>	<u>Population Served</u>	1) _____	\$ _____	_____	_____	2) _____	\$ _____	_____	_____	3) _____	\$ _____	_____	_____
<u>Project Component</u>	<u>Estimated Component Cost</u>	<u># Connections Benefiting</u>	<u>Population Served</u>														
1) _____	\$ _____	_____	_____														
2) _____	\$ _____	_____	_____														
3) _____	\$ _____	_____	_____														

Project Category Costs	Personnel	\$
	Fringe Benefits	\$
	Travel	\$
	Supplies	\$
	Equipment	\$
	Contractual	\$
	Construction	\$
	Other	\$
	Total Direct Costs	\$
	Indirects Costs	\$
	Total Costs	\$

Service Area Information	Total Population Served:	Total number of connections:
	Number of tribal people served by project(s): Number of non-tribal people served by project(s): Number of meters: Percent of connections metered: Is billing based on meter readings?	

Technical, Managerial, and Financial Capacity	Does the utility have a certified water operator (Include a copy of operator(s) certificate)? Does the utility have an annual operating budget? (Include a copy) Does the utility have an accounting system that records, tracks and reports the public water system's revenues and expenses separate from other program activities? (Include written certification)
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Committed Funding	<p>Have other entities committed to contribute funding for this project? If so, describe commitment:</p> <p>Have you applied for funding from other agencies? If so, which agencies?</p>						
Other	<p>Are you implementing water and/or energy conservation measures at this water system? If so, please describe them:</p>						
Background Information	<p>Does the Tribe or water utility have a source water or wellhead protection program? If so, please describe it:</p> <p>Is the proposed project a consolidation project? If so, how many systems will be consolidated? What are their populations? What is the per capita, per day water consumption in gallons/person/day of treated water for the water system?</p>						
Project Status	<table border="0"> <tr> <td>Preliminary Engineering Report Complete?</td> <td>If yes, submit with proposal.</td> </tr> <tr> <td>Environmental Information Document Complete?</td> <td>If yes, submit with proposal.</td> </tr> <tr> <td>Design Complete?</td> <td>If yes, submit with proposal.</td> </tr> </table>	Preliminary Engineering Report Complete?	If yes, submit with proposal.	Environmental Information Document Complete?	If yes, submit with proposal.	Design Complete?	If yes, submit with proposal.
Preliminary Engineering Report Complete?	If yes, submit with proposal.						
Environmental Information Document Complete?	If yes, submit with proposal.						
Design Complete?	If yes, submit with proposal.						

Person Certifying this information is accurate.

Printed Name _____

Title of Above Person _____ Date _____

Signature _____