

U.S. Environmental Protection Agency, Region 9 Drinking Water Emerging Contaminant Programs FY26 Guidelines Program Description, Eligibility and Project Ranking Criteria

EPA Region 9 is pleased to issue these guidelines and procedures for applying for assistance to address emerging contaminants in drinking water, through two grant programs. These programs provide funding and in-kind support for federally recognized Tribes within EPA Region 9 to address emerging contaminants in public drinking water system infrastructure. Funds are generally awarded through direct grants to Tribes or interagency agreements with the Indian Health Service (IHS). Tribes can also request in-kind assistance for planning and sampling activities through an EPA-directed contractor, which may provide more flexibility and reduce administrative requirements.

This guidance will describe eligibility for the following programs:

- **Drinking Water Tribal Set-Aside Emerging Contaminants (DWTSA-EC)** – Projects must be otherwise DWTSA eligible, and the primary purpose must be to address emerging contaminants in drinking water.
- **Emerging Contaminants (EC) in Small or Disadvantaged Communities (SDC)**– The EC-SDC Tribal Grant Program funds projects and activities that address emerging contaminants in drinking water systems serving small Tribal communities. Tribes are eligible to receive funding if the community population is less than 10,000 individuals.

Tribes may submit one project proposal that will be considered for the DWTSA-EC and the EC-SDC Programs. EPA will determine the most appropriate funding source for each project. Approximately \$14 million in FY26 funds may be available to support projects addressing emerging contaminants in drinking water. EPA developed criteria to prioritize projects for emerging contaminant funding. Projects that address Per- and Polyfluoroalkyl substances (PFAS) contamination in drinking water receive a higher priority.

Funds can be awarded via direct grants, interagency agreements (IAs) with the Indian Health Service (IHS) or through EPA-directed contractor support. Matching funds are not typically required; however, in cases where commercial entities and/or non-Tribal populations receive water from the public water system, EPA may require the Tribe to provide a funding contribution proportional to the water demand of the commercial entity and/or non-Tribal populations. Similarly, for projects whose costs are correlated with water usage, a funding contribution may be required for water systems using over 150 gallons per capita per day, with the contribution proportional to the amount over 150 gallons per capita per day used. Additionally, given the limited funds available under this program and EPA's goal to maximize the number of projects it can fund, EPA may work with applicants to explore the availability of funding from other federal agencies, Tribal or third-party sources to contribute to the total project cost.

This assistance for the DWTSA-EC funding will be awarded under Section 300j-12 of the Safe Drinking Water Act, 42 U.S.C. §1452. The Catalog of Federal Domestic Assistance Number is 66.468. Funding for the EC-SDC program will be awarded under the Emerging Contaminants in Small or Disadvantaged Communities (SDWA 1459A), as amended by the Investment

Infrastructure and Jobs Act (IIJA), 2 C.F.R. §200.205. The Catalog of Federal Domestic Assistance Number is 66.442.

Applications for Planning Projects:

Planning projects include outreach, technical assistance, sampling, and developing pre-construction documents such as feasibility analysis or Preliminary Engineering Reports (PERs).

Examples of eligible planning activities include:

- Performing sampling and analysis to identify baseline levels of contaminants of concern.
- Technical assistance including the development of quality assurance project plans (QAPP) for sampling activities
- Development of a preliminary engineering report (PER)
- Preparation design documents to support emerging contaminant projects.
- Development of outreach materials to inform consumers about emerging contaminant concerns.

Region 9 expects costs for planning projects to range from \$20,000 to \$500,000.

Applications for Construction Projects:

Construction projects may include the preparation of bid documents, remediation, intertying multiple water systems, the identification and construction of new water source infrastructure, and installation of treatment for emerging contaminants. A fully scoped PER is a necessary component to support a funding application for construction projects.

Examples of eligible construction activities include:

- Installation of a water treatment system to remove an emerging contaminant. Example technologies include anion exchange, green-sand filtration, reverse osmosis, and granular activated carbon (GAC).
- Consolidation with another public water system.
- Identification of a new water source

EPA expects construction projects to range from \$100,000 to \$4,000,000.

Important Dates for Planning Projects:

EPA will accept and review **planning** project proposals applications on a rolling basis. EPA will notify applicants of final ranking and funding decision 6-8 months from the date of submission. Eligible planning projects will be evaluated in the order submitted.

Table 1: Estimated Project Award Timeline

Proposal Submission Steps	
Estimated Timeframe	EPA Actions
Step 1: Tribe Submits Proposal	
2 months	EPA will review proposals for completeness and notify each applicant with requests for additional information.
Step 2: Tribe Responds to EPA Comments	
1 month	EPA reviews final submissions and notifies the Tribe of funding decision, along with guidance letters for projects to be funded through grants.
Step 3: Tribe submits final documents for Grant, Interagency Agreement, or In-Kind Services	
3 months	EPA processes and awards funds for projects.

Important Dates for Construction Projects:

December 6, 2025: EPA must receive **construction** proposals by this date, including the proposal form, Tribal government endorsement, and preliminary engineering reports (PERs) or planning project proposals with supporting documents. Please note a Tribal endorsement for the EPA-Directed contractor option must give permission for the contractor to do the work. Construction proposals received after December 6, 2025, will not be considered for funding.

January 2026: EPA will notify each applicant of the draft proposal priority and whether the project is selected to continue with the application process.

March 2026: Applicants can submit comments on their draft project prioritization. For projects selected to continue with the application process, applicants must submit responses to any EPA comments and submit any additional documentation or endorsements that EPA requests.

April-August 2026: EPA notifies applicants of the final ranking and funding decision, along with guidance letters for projects to be funded by grant.

May-August 2026: Tribe submits grant application, or Indian Health Service submits draft Memorandum of Agreement and signed Project Summary. Exact dates will be included in funding decision notification letters.

September 2026: EPA awards funds for selected projects.

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I. Description of Programs

This guidance provides eligibility and project selection criteria for two funding programs: the Drinking Water Tribal Set-Aside Emerging Contaminants (DWTSA-EC) and the Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) Tribal grants. These grant programs support developing infrastructure improvements that address emerging contaminants in drinking water for Tribal communities. Both programs have very similar project and applicant eligibilities. Region 9 developed a separate project ranking criteria to prioritize project selection under these new programs. The region expects to award a combined \$14M in FY26 funds under these programs.

Please note for all programs, projects must be otherwise DWTSA eligible, and the primary purpose must be to address emerging contaminants in drinking water. Projects that address any contaminant on any of EPA's [Contaminant Candidate Lists](#) (CCLs) are eligible. EPA prioritizes projects that address Per- and Polyfluoroalkyl substances (PFAS) in accordance with our EC-Health ranking criteria further described in Section III.

Tribes may submit one project proposal that will be considered for both the DWTSA-EC and the EC-SDC Programs. EPA will determine the most appropriate funding source for each project.

Drinking Water Tribal Set-Aside Emerging Contaminants (DWTSA-EC) Funding

This grant funds projects which address emerging contaminants in drinking water, with a focus on Per- and Polyfluoroalkyl substances (PFAS). The primary purpose of the project must be to address an emerging contaminant on EPA's CCLs. This assistance will be awarded under Section 300j-12 of the Safe Drinking Water Act, 42 U.S.C. §1452. The Catalog of Federal Domestic Assistance Number is 66.468.

Emerging Contaminants in Small or Disadvantaged Communities (EC-SDC) Tribal Grant Program

The EC-SDC Tribal Grant Program funds projects and activities that address emerging contaminants in drinking water systems serving small Tribal communities. Like the DWTSA-EC program, this grant's primary purpose is to address PFAS. However, projects that address any contaminant on any of EPA's CCLs are also eligible. 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 fewer 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). This assistance will be awarded under the Emerging Contaminants in Small or Disadvantaged Communities (SDWA 1459A), as amended by the Investment Infrastructure and Jobs Act (IIJA), 2 C.F.R. §200.205. The Catalog of Federal Domestic Assistance Number is 66.442.

Examples of eligible planning activities include:

- Performing sampling and analysis to identify baseline levels of contaminants of concern.
- Technical assistance including the development of quality assurance project plans (QAPP) for sampling activities
- Development of a preliminary engineering report (PER)
- Preparation of bid documents and design to support emerging contaminant projects.

- Development of outreach materials to inform consumers about emerging contaminant concerns.

Examples of eligible construction activities include:

- Installation of a water treatment system to remove an emerging contaminant. Example technologies include anion exchange, green-sand filtration, reverse osmosis, and granular activated carbon (GAC).
- Consolidation with another public water system.
- Identification of a new water source

Projects addressing emerging contaminants can be supported through three funding vehicles, outlined below, in order of least to most administrative requirements for the Tribe. Tribes will submit one project proposal that will indicate the community's preference between the contractor-directed technical assistance, interagency agreements, and a direct grant. A Tribe may select a hybrid approach, where some tasks are completed by a contractor, and others are completed through a grant award or interagency agreement. EPA will work with the Tribe to select the appropriate funding vehicle based on the project scope.

Contractor support –

The EPA-directed contract provides in-kind services to complete planning projects that address emerging contaminants in drinking water systems. Examples of activities that the contractor can support include the development of a preliminary engineering report, benchmark sampling to establish a baseline of contamination, technical assistance that supports project development, construction oversight and management, and training for water system staff. The contract cannot support actual construction costs.

Interagency Agreements with the Indian Health Service –

Interagency Agreements (IAs) with the Indian Health Service (IHS) provide support for a broad scope of planning, design and construction projects addressing emerging contaminants. The IHS handles the administrative requirements of the project, including the development of a work plan and budget, and all quarterly and final reporting requirements. The Tribe will enter into a memorandum of agreement with the IHS that delineates the project scope and responsibilities.

Direct Grants-

Funding can be awarded through a direct grant to the Tribe for both planning and construction projects. Tribes must submit a complete application, including a workplan and budget. Tribes must also meet all administrative requirements of the grant, including submitting project deliverables (e.g., technical specifications, a completed PER) and quarterly and final reports to the EPA.

II. Project Eligibility Information

What is an eligible emerging contaminant?

Projects that address any contaminant listed on any of EPA's CCLs are eligible. The CCLs are developed under the Safe Drinking Water Act (SDWA) to identify priority contaminants for future regulatory determinations. CCLs are a list of contaminants that are currently not subject to any proposed or promulgated national primary drinking water regulations but are known or anticipated to occur in public water systems. Contaminants listed on the CCLs may require future regulation under the SDWA. You can find more information about current CCLs and EPA's regulatory determination process here: <https://www.epa.gov/ccl>.

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 these grant programs, with the PFAS exception 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. EPA established legally enforceable levels, called Maximum Contaminant Levels (MCLs), for six PFAS in drinking water: perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic acid (PFNA), and hexafluoropropylene oxide dimer acid (HFPO-DA, or GenX Chemicals) as contaminants with individual MCLs, and PFAS mixtures containing at least two or more of PFHxS, PFNA, HFPO-DA, and PFBS using a Hazard Index MCL to account for the combined and co-occurring levels of these PFAS in drinking water.

The MCLs for the PFAS regulated under the rule are listed below in table 2.

Table 2: Maximum Contaminant Levels for PFAS in Drinking Water

Compound	Final MCLG	Final MCL (enforceable levels)
PFOA	Zero	4.0 parts per trillion (ppt) (also expressed as ng/L)
PFOS	Zero	4.0 ppt
PFHxS	10 ppt	10 ppt
PFNA	10 ppt	10 ppt
HFPO-DA (commonly known as GenX Chemicals)	10 ppt	10 ppt
Mixtures containing two or more of PFHxS, PFNA, HFPO-DA, and PFBS	1 (unitless) Hazard Index	1 (unitless) Hazard Index

The Agency is also evaluating additional PFAS and groups of PFAS for future standards. EPA determined that PFAS focused projects are eligible for funding regardless of whether EPA has established a NPDWR for that PFAS or group of PFAS. All PFAS analytes are eligible to receive Drinking Water Emerging Contaminant Funding.

More information on PFAS is located here: <https://www.epa.gov/pfas>

Region 9 supports a voluntary PFAS sampling program for all public water systems on Tribal land in the region. If your water system has not yet sampled for PFAS in drinking water, we encourage you to request sampling assistance through that program first. More information about the Tribal PFAS sampling program can be found here: <https://www.epa.gov/tribal-pacific-sw/tribal-pfas-drinking-water-sampling-project>

What types of projects can be supported through these programs?

The DWTSA-EC program eligible projects and activities are more fully described in EPA's March 2022 IJIA Implementation memo.¹ Project Eligibility for the EC-SDC funding is more fully described in EPA's Emerging Contaminants in Small or Disadvantaged Communities – Tribal Grant Program: Implementation Manual (July 2023).² Eligible project examples for both programs include:

- Completing pre-development activities (such as determining if and where contamination exists) for per- and polyfluoroalkyl substances (PFAS) and other emerging contaminants.
- Conducting initial, special (non-routine/noncompliance) monitoring to establish a baseline understanding of a contaminant of concern.
- Developing project planning and preliminary engineering documents for PFAS and other emerging contaminants projects.
- Designing projects to address PFAS and other emerging contaminants.
- Technical assistance to evaluate emerging contaminant problems.
- Programs to provide household water-quality testing, including testing for unregulated contaminants.
- Activities necessary and appropriate for Tribes to respond to an emerging contaminant.
- Installing centralized water treatment to address emerging contaminants at a small or disadvantaged community water system.

Additionally, the EC-SDC Program can fund:

- Laboratory testing equipment such as supplying water test kits and instructions to households.
- Source water protection activities such as implementation of voluntary source water protection activities in delineated drinking water source areas (as defined in SDWA section 1453).

What types of projects cannot be supported through this program?

According to §1452(a)(2), the Safe Drinking Water Act specifically disallows projects for:

- Monitoring;
- Operation and maintenance;
- Projects intended primarily for future growth; and
- Land acquisition (unless the land is integral to the project and is from a willing seller (§1452(k)(1)(A)(i)).

According to §1452(g)(2), the Safe Drinking Water Act specifically disallows projects for:

- Supplementing the Public Water System Supervision Program;
- Administering or providing technical assistance through source water protection programs;

¹ https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf

² https://www.epa.gov/system/files/documents/2023-06/EC-SDC%20-%20Tribal%20Implementation%20Document_Final%20508%20compliant.pdf

and

- Developing and implementing a capacity development strategy.

According to §1452(k), the Safe Drinking Water Act specifically disallows projects for:

- Loans to water systems to acquire land or a conservation easement.
- Loans to any community water system to implement source water protection measures in delineated areas;
- Loans to any community water system to assist them with source water protection;
- Technical or financial assistance to any water system to carry out a capacity development strategy; and
- Implementation of a wellhead protection program.

According to national guidelines, funding is not allowed for:

- Projects that serve mainly commercial uses, including livestock watering;
- Projects needed primarily for fire protection;
- Compliance monitoring; and
- Projects for tasks that are considered routine operation and maintenance.

In addition to the ineligibilities described in the DWTSA guidance above, the following restrictions also apply to both emerging contaminant programs:

- **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:** Funding for bottled water is not eligible under the DWTSA-EC or the EC-SDC Tribal Grant Programs.

Additional 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.
- Lead service line replacement.
- Replacement of premise plumbing.
- Costs that are unallowable (e.g., lobbying and alcoholic beverages) under 2 CFR 200 Subpart E – Cost Principles.
- Activities that have received assistance from the DWSRF or EC-SDC Grant Programs through allotments to states or territories.

III. Applicant Eligibility Information

Although applicant eligibility is similar for the two Drinking Water Emerging Contaminant Programs, there are a few differences, which are described below.

A. Who is eligible to receive funding under the Drinking Water Tribal Set Aside Emerging Contaminants Grant Program?

Only federally recognized Indian Tribes within EPA Region 9 may submit proposals.³ Region 9 covers the states of Arizona, California, Hawaii, and Nevada, the Navajo Nation as well as the Pacific Islands of American Samoa, Commonwealth of the Northern Mariana Islands, and Guam. Funds will be awarded through grants to Tribes or interagency agreements with HIS. Tribes may also request in-kind assistance through an EPA-directed contractor to provide technical assistance, complete project planning and preliminary engineering and support construction oversight.

If a Tribe receives a grant, the Tribe may issue a contract or subaward using grant funds to carry out the project. In such cases, the Tribe must comply with the federal procurement requirements, federal regulations pertaining to subawards, and the EPA Sub award Policy. The Tribe is the EPA grant recipient and is ultimately responsible to EPA for proper management of the funds. The plan for the Tribe's use of the grant funds must be identified in the grant award document.

Which water systems are eligible to receive funding?

1. Only public water systems that are community water systems or non-profit, non-community water systems are eligible to receive funding.⁴
 - 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 an average of at least 25 individuals daily at least 60 days out of the year. It may include collection, treatment, storage, and distribution facilities.
 - A public water system is classified either as a community water system or a non-community water system. 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.
2. The system must serve an Indian Tribe.⁵ Funding can be provided to improve any eligible public water system, whether it is owned by a Tribe, on or off-reservation, or serving Tribal communities living on or off-reservation. Since Tribes will be applying for funds on behalf of the water system, EPA will assume that the water system serves a Tribe, as required by the SDWA, and the requested improvements are a high Tribal priority. In cases where commercial entities and/or non-Tribal populations receive water from the public water system, EPA may require the Tribe to contribute funds to the project

³ 42 U.S.C. 300j-12(i)(1)

⁴ 42 U.S.C. 300j-12(a)(2)

⁵ 42 U.S.C. 300j-12(i)(2)

proportional to the water demand of the commercial entity and/or non-Tribal populations.

3. Systems that are in significant noncompliance with any requirement of the National Primary Drinking Water Regulations will not be eligible for funding unless the project which is being funded will ensure compliance.⁶ Monitoring and reporting requirements must also be met to maintain compliance with the SDWA.
4. Any system to be assisted with DWTSA funding must be operated by adequately trained and certified operators. Please note that public water systems subject to the Surface Water Treatment Rule and community and non-transient non-community water systems subject to the Disinfection/Disinfectant Byproducts Rule must be operated by qualified personnel meeting requirements specified by EPA. EPA determines that a qualified operator is an operator certified at the appropriate level of the water system to be in compliance with the SDWA.
5. Tribes will only receive funding for a project if they can demonstrate that the utility has, or will develop, the technical, financial, and managerial capacity to properly maintain the water system.⁷

B. Who is eligible to receive funds under the Emerging Contaminants in Small or Disadvantaged Community Grant Program?

Per the national guidelines⁸ for the EC-SDC Grant Program, 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.

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, noncommunity 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. For projects that serve public water systems with a large non-Tribal population, EPA may require a cost share proportional to the non-Tribal population.

Public water systems that are 1) serving populations of 10,000 or fewer and 2) located in an area governed by a Tribe are eligible to apply this funding. Please note the threshold for population is determined based on the number of people served by the water system, not the number of people

⁶ 42 U.S.C. 300j-12(a)(2)

⁷ U.S. EPA Final Tribal Set-Aside Guidelines (national), p. 19

⁸ U.S. EPA Emerging Contaminants in Small or Disadvantaged Communities – Tribal Grant Program: Implementation Manual, P. 5-7

living on the Reservation.

The following types of water systems are ineligible to receive funding from the EC-SDC Tribal 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**

C. What is capacity and why is it important?

The respective national guidelines state that the DWTSA-EC and EC-SDC programs only fund drinking water infrastructure projects at public water systems that have the technical, managerial and financial capacity to ensure compliance with the requirements of the Safe Drinking Water Act per requirements in §1452(a)(3)(A)(i). The investment in physical infrastructure is only one part of ensuring safe drinking water delivery. Lack of proper operation and maintenance may lead to deterioration of the infrastructure and unsanitary conditions. Proper staffing, management, financial planning, and funding are crucial to ensure that operation and maintenance are adequate. Therefore, capacity is a threshold eligibility factor for funding.

EPA characterizes the three elements of technical, financial, and managerial capacity to properly run the water system as follows:

1. **Technical capacity** refers to the physical infrastructure of the water system (i.e. the capability of the system components to provide water that meets the requirements of the SDWA), and the technical knowledge of the system personnel and their ability to use that knowledge to adequately operate the system. Evidence of adequate technical capacity includes:
 - a. Employment of certified operator (as appropriate for the system including proposed infrastructure)

An operator must be certified at the appropriate level to operate the public water system, including the infrastructure proposed in the project. A Tribe or the water system serving the Tribe must provide copies of the operator's certification prior to award of DWTSA funds. Customers of any public water system need to be provided with an adequate supply of safe, potable drinking water. To attain this, it is essential that public water system operators are trained and certified and that they have knowledge and understanding of the public health reasons for drinking water standards. Without qualified and trained operators, public health cannot be adequately protected.
 - b. Adequate staff to operate the system

It is important to allow sufficient time for staff to examine the system, conduct preventive maintenance, ensure that conditions remain sanitary, address problems as

quickly as possible to avoid a loss of pressure, prevent a lack of water, continue proper operation, etc. This can be done by a variety of methods, but public health and the water system must be priorities of the operator(s).

c. Ability to adequately survey system

Operating a system requires regular inspections of the facilities (including the inside and outside of storage tanks, pump houses, and well heads), flushing gate valves regularly, etc. To achieve this, the operator needs to have access to vehicles when facilities are not located within immediate walking distance.

d. Availability of the tools and measurement devices necessary to perform routine operation and maintenance on the system

Operators must have the ability to address a problem and conduct routine maintenance, such as changing leaky gaskets, flushing valves, fixing chlorinators, and measuring chlorine and fluoride levels.

e. Existence of as-builts

The existence of as-builts allows operators to properly conduct necessary maintenance activities such as flushing the system regularly, locating shut-off gate valves to isolate a water line break, and locating water lines for excavation.

f. Ongoing training and safety programs

Ongoing training allows operators to sharpen their skills and better address system operations. Safety programs are necessary because a water system can be a dangerous place: high voltage areas and confined spaces are present, slippery surfaces exist, high structures must be climbed, and potentially dangerous treatment chemicals must be handled.

2. **Financial capacity** includes the ability of the system to maintain sufficient revenues to cover operation costs and the effective management of those resources to operate the system. Evidence of adequate financial capacity includes:

a. Adequate written budget (and process in place) to pay for staff, chemicals, power, maintenance, monitoring

Financial capacity is key to proper operation and maintenance. A written budget is the first step. Though often smaller systems cost more per user than large systems (because of economies of scale), most ground water systems are relatively inexpensive for a necessary utility. Drinking water costs in many areas exceed \$30-\$50 per household connection per month. It is important for communities to make enough funds available to properly operate and maintain the system. If applicable, systems should have procedures in place to encourage prompt customer payment.

b. Capital replacement plan (or identification of capital replacement needs)

This ensures that money is set-aside from the budget to address expected repairs that happen on a regular basis, such as pump maintenance and replacement, and tank clean-outs. If these are not set aside in the budget, it may lead to a budget shortfall when the items need replacement.

- c. Annual operating budget identified (whether through user charges or general fund) at beginning of year

To ensure continued operation at a reasonable cost, a budget must be developed that shows income, operation and maintenance costs, and short-lived asset reserves. This allows the system to address expenses in a reasonable manner as opposed to expending greater amounts when the unforeseen emergency arises (e.g., a pump due for replacement breaks down over the weekend, creating a need to expedite shipment and pay overtime).

An annual operating budget is also required when a Tribe requests funding for preliminary engineering report (PER) development. 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.

- d. Record keeping for budget, use, operations, and equipment

For consistently efficient operations, it is necessary to maintain records to anticipate budget expenses and equipment needs ahead of time.

- e. Drinking water program accounting system

The accounting system for the public water system must have the capability to record, track and report the public water system's revenues and expenses separate from other program activities. 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. The ability to track operating funds is an important element in demonstrating a utility's managerial and financial capacity.

- 3. **Managerial capacity** includes such things as ownership accountability, the ability of management to adequately staff the system with qualified personnel, an understanding of the regulatory requirements involved in operating a water system, and the ability to interact well with customers and regulators. Evidence of adequate managerial capacity includes:

- a. All monitoring required by the SDWA is consistent and up to date

While monitoring itself does not correct health problems, it is necessary to determine the quality of water and ensure protection of public health. Though not eligible for funding, monitoring is required by law.

b. System management

The responsibilities of the managers must be well-defined and in written form. The "checks and balances" on those with responsibility for the system should also be well-defined and in written form (e.g. water board, Tribal council review). The division/delegation of responsibility will clearly be more complex with a water utility or larger water system than with a small water system.

c. Development and implementation of source water protection plan

Source water protection is necessary to ensure that once the water source is developed, it remains safe for human consumption.

EPA will also analyze other forms of capacity when considering project proposals. For example, Tribes must demonstrate that they have the ability (either in-house or with the assistance of the IHS or another appropriate agency) to meet EPA's project management requirements and properly oversee the construction project.

D. How does capacity affect eligibility?

It is important to note that a utility's capacity will not affect a project's health category ranking. EPA will assess capacity only if a project is high enough on the priority list to be selected to proceed with the funding process. EPA's assessment of the utility's capacity may include the review of its compliance status and recent sanitary survey reports. If EPA determines that a utility does not have adequate capacity to operate and maintain the system, the system owner must agree to take appropriate steps to ensure that the utility develops the appropriate level of capacity. Appropriate steps may include some or all of the following:

- Training and certifying existing system personnel or hiring trained and certified personnel;
- Developing a source water protection plan;
- Developing an infrastructure replacement plan;
- Instituting a long-term program to provide any needed operation and maintenance;
- Conducting an analysis of the system's financial health;
- Developing an annual operating budget and effective accounting system;
- Adopting a rate structure that will provide the system with sufficient resources to adequately maintain and operate the system;
- Establishing a reserve fund to replace infrastructure reaching the end of its useful life; or
- Establishing an entity to manage and operate the system.

Tribes wishing to receive more information about improving the technical, managerial, and financial capacity of their systems, or other project management skills should contact their EPA Project Officers and/or Drinking Program Manager (see Section VIII).

E. Are Matching Funds Required?

Matching funds are not typically required; however, in cases where commercial entities and/or non-Tribal populations receive water from the public water system, EPA may require the Tribe to contribute funds to the project proportional to the water demand of the commercial entity

and/or non-Tribal populations.

Similarly, for projects whose costs are correlated with water usage, a funding contribution may be required for water systems using over 150 gallons per capita per day, with the contribution proportional to the amount over 150 gallons per capita per day used.

Additionally, given the limited funds available under this program and EPA's goal to maximize the number of projects it can fund, EPA may work with applicants to explore the availability of funding from other federal agencies, Tribal or third-party sources to contribute to the total project cost.

IV. Proposal Submission Process

The proposal submission process is divided into three steps. The first step is the submittal of the initial project proposal package including: a) the proposal form; b) the Tribal government endorsement; c) documentation to support the health category ranking and for construction projects; d) the preliminary engineering report (standardized template in Appendix B). Planning projects are accepted on a rolling basis, and applications for construction projects are due **December 6, 2025**. Please refer to the Important Dates section on page 3 for further details regarding submission dates.

E-mail one electronic copy of the proposal and supporting documentation to: Sara McGillewie mcgillewie.sara@epa.gov and Katie Velazquez velazquez.katie@epa.gov.

Electronic files exceeding 8MB must be separated into emails not exceeding 8MB each. If you have difficulty submitting electronic documentation, contact Sara McGillewie and Katie Velazquez.

Further detail about these package components is listed below.

Project Proposal Contents

1. Project Proposal Form

Instructions - A Tribe may submit more than one project proposal under these guidelines and each project proposal will be separately reviewed and considered for funding. Additionally, Tribes that submitted a project proposal during a previous funding cycle that did not receive funding can submit, by the proposal deadline, a written request that the project be reconsidered under this round of funding.

The Project Proposal Form is included as an attachment. Additional documents may be attached as necessary to ensure that EPA receives complete information to evaluate the project proposals. Additional proposal attachments may include sampling results from your public water system, completed feasibility studies, preliminary engineering reports, rights-of-way documentation, and environmental documents if available. See below for specific directions.

The Project Proposal Form is a 4-tab excel document. The first tab contains instructions and does not necessitate any applicant input. All proposed project applications require completion of the General Form, located on the second tab. This tab includes required information about the water

system, including the number of connections, contact information, and whether commercial entities are served by the system. If the proposed project is a planning project, the applicant must complete the third tab of the Form but should leave the fourth tab blank. For construction projects, the applicant will skip the third tab and complete the fourth tab.

Please complete this form to the greatest extent possible. If key information is missing (e.g., contact information, description of the project, type of application) the application may experience delays in processing.

2. 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).

3. Planning Projects

In addition to items 1 and 2 above, planning project proposals should include a detailed project proposal, a proposed budget, and a project timeline for completion of project activities, including a Preliminary Engineering Report. The outcome of the planning project should be the development of a PER that utilizes the standardized PER template found in Appendix A.

4. Construction Projects

To receive consideration for construction funding, a PER that follows a standardized template must be submitted with the project proposal form. The standardized PER makes it easier for Tribes to receive funding from more than one federal source and simplifies coordination between federal agencies. A PER should clearly describe the system's present situation, analyze alternatives, and propose a specific course of action, from an engineering perspective. The level of effort and depth of analysis required for the PER are proportional to the size and complexity of the proposed project. See Appendix A for a standardized PER template. Include copies of any completed environmental documents, if available. If EPA determines that a project's PER is not adequate, EPA may award funds to complete a more comprehensive PER rather than construction funding. Once the project has an adequate PER, the Tribe can submit a proposal for construction funding during the next funding cycle.

To receive consideration for construction funding, the applicant must demonstrate that all necessary rights-of-way have been or will be secured prior to award of funds. EPA may award funds for work to secure rights-of-way, though DWTSA and EC-SDC funds cannot be used to purchase real property.

5. Budgets

For construction projects that are funded through an Interagency Agreement with the Indian Health Service, the proposed budgets may include allowances for Tribal administration, contingencies, and technical support services (e.g., including engineering and inspection). These allowances are based on the following percentages of estimated construction costs:

Tribal Administration	5%
Contingencies	10%
Technical Support Services	15% (including engineering and technical support)

If the technical support services or Tribal administration costs exceed the above allowances, the applicant must provide written documentation to support the increased costs. Justification for increased Tribal administration fees could include, but is not limited to, submitting a copy of a signed Memorandum of Agreement (MOA) between the Tribe and the Indian Health Service (IHS). Only actual costs incurred under the approved budget will be paid.

For planning projects that are funded through an Interagency Agreement, project proposals and budgets should identify the entity that will be performing each planning activity. The administrative and technical support costs should be captured in the individual line-item costs for each planning activity and should not be estimated as a percentage of construction.

V. Project Selection Methodology

EPA will select projects for direct funding or contractor support from a priority list created from a two-step prioritization process. The DWTSA-EC and the EC-SDC programs are all required by statute to prioritize PFAS contamination. As such, Region 9's prioritization criteria give preference to projects that address PFAS above other eligible emerging contaminants. If a project has more than one component, each component will be placed into one of the following health categories. If funding or in-kind contractor support cannot be provided for all eligible projects within the same health category, further prioritization will occur based on the considerations described in Step 2 Ranking Criteria. If a project scope includes both EC and non-EC eligible activities, EPA will assign each scope a respective ranking using the EC health categories and a DWTSA health categories.

VI. Emerging Contaminant Health Ranking Categories

The following health category rankings will be used to prioritize funding for projects that address emerging contaminants in drinking water at public water systems.

Step One: Health Ranking Categories

Higher Priority	Category 1	Systems exceeding a Maximum Contaminant Level (MCL)/Regulatory Standard or health advisory level for any PFAS compound. 1A: Exceeding an MCL 1B: Exceeding a health advisory level
	Category 2	Systems where any other emerging contaminant (excluding PFAS) exceeds a health advisory level. 2A: Twice the advisory and above 2B: 1.5 times the advisory and above 2C: Above the advisory
	Category 3	Systems where PFAS results are approaching an MCL/Regulatory Standard or health advisory level.
	Category 4	Systems where any other emerging contaminant (excluding PFAS) results are approaching a health advisory level.
	Category 5	Systems with detections of an emerging contaminant at levels that constitute a health risk not covered in categories 1-4. 5A: Any PFAS contaminant on the Contaminant Candidate List (CCL) 5B: Any other emerging contaminant on the most current CCL 5C: Any other emerging contaminant not on the current CCL
	Category 6	Systems where the emerging contaminant level causes a technical, cosmetic, or aesthetic effect.
Lower Priority	Category 7	Systems where detections are much lower than the MCL/Regulatory Standard or health advisory level. 7A: Any PFAS contaminant on the CCL 7B: Any other emerging contaminant on the most current CCL 7C: Any other emerging contaminant not on the current CCL

Step Two: Prioritizing System

Criterion	Points
1) Consolidation	
a) Project consolidates more than two systems	5
b) Project consolidates only two systems	3
2) Population Served (for consolidation projects, use the population of the system being prioritized in the health category)	
a) Less than 100 people	5
b) 100 to 249 people	4
c) 250 to 499 people	3
d) 500 to 749 people	2
e) 750 to 999 people	1
3) Tribal Population Served	
a) At least 90% of population served is Tribal	7
b) 75% to 89% of population served is Tribal	4
4) Tribal Ownership	
a) System is Tribally owned	5
5) Grant Amount Per Connection	
a) Less than \$2,500 per household	6
b) \$2,500 to \$4,999 per household	5
c) \$5,000 to \$9,999 per household	4
d) \$10,000 to \$19,999 per household	3
e) \$20,000 to \$29,999 per household	2
f) \$30,000 to \$49,999 per household	1
6) Additional Benefits	
a) System has water and/or energy conservation measures	2
b) System has or is implementing source and/or wellhead protection programs	2
c) System has metering and billing by water usage	2
7) Total Estimated Grant Amount	
a) Less than \$200,000	5
b) \$200,000 to \$399,000	4
c) \$400,000 to \$599,000	3
d) \$600,000 to \$799,000	2
e) \$800,000 to \$1,000,000	1

VII. Award Administration Information

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.

Financial Status Reports (FSRs) – For grants, an interim FSR is required annually and a Final FSR must be submitted within 90 days after grants expire.

Terms and Conditions: Examples of Grant Programmatic Conditions and Interagency Agreement Programmatic and Administrative Conditions are included in Appendix B. Sample Grant Administrative Conditions can be found online at <https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2018>

Environmental Reviews conducted by IHS under interagency agreements with EPA: For interagency agreements between EPA and IHS, IHS shall be the lead agency in environmental review.

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 Cross-Cutting Authorities: For interagency agreements, IHS shall be the lead agency responsible for complying with the Federal cross-cutting authorities (e.g. the National Historic Preservation Act, the Endangered Species Act, etc.). For grants that EPA awards directly to Tribes, the recipient must comply with the applicable Federal cross-cutting authorities before the grant is awarded.

Build America, Buy America: The Build America, Buy America (BABA) provisions of the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58, §§70911-70917) apply to EPA funding obligated after May 14, 2022, for EPA funded infrastructure projects. Absent a waiver, none of the EPA funding subject to BABA may be used for a project of infrastructure unless all iron and steel, manufactured products, and construction materials that are consumed in, incorporated into, or affixed to an infrastructure project are produced in the United States. The BABA preference requirement applies to an entire infrastructure project, even if it is funded by both Federal and non-Federal funds. Additional information on BABA compliance and waivers is available in EPA's "Build America, Buy America" ([link](#)) General Term and Condition and EPA's BABA website: [EPA link](#)

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.

VIII. Agency Contacts

For general information about this program, please contact:

Sara McGillewie and Katie Velazquez
Drinking Water Emerging Contaminant Co-Coordiators
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105
Sara McGillewie : 213-244-1859, McGillewie.Sara@epa.gov
Katie Velazquez: 213-244-1834, Velazquez.Katie@epa.gov

We encourage you to work with your EPA water infrastructure project officers and drinking water program managers to discuss potential project proposals and funding eligibilities. Your infrastructure project officer will be your primary point of contact for funding applications and project oversight. Your drinking water program managers provide Safe Drinking Water Act regulatory oversight for public water systems on tribal land and may assist with project scoping.

To discuss either of those topics, please contact the appropriate person listed below.

EPA Tribal Water Infrastructure Project Officers:

Geographic assignments for infrastructure Project Officers are aligned with Indian Health Service Area and District Offices within Region 9.

[Katie Velazquez](#), Project Officer (213) 244-1834
Reno District

[Adam Ramos](#), Project Officer (415) 972-3450
Navajo Nation Area

[Nancy Sockabasin](#), Project Officer (415) 972-3772
Tucson Area

[Madeleine Tango](#), Project Officer (619) 874-0568
Escondido District and Clovis Area Field Office

[Emma Young](#), Project Officer (415) 972-3707
Eastern Arizona and Redding Districts

[Sara McGillewie](#), Project Officer (213) 244-1859
Western Arizona District, Ukiah and Sacramento Field Offices

EPA Drinking Water Program Managers:

[Ian Chinn](#), Program Manager (415) 972-3418
Northern California, Northern and Eastern Nevada, Havasupai Tribe, Hualapai Tribe

[Joi Chu-Ketterer](#), Program Manager (415) 972-3803
Sacramento Area, Owens Valley, Washoe Tribe of Nevada and California

[Nate Delano](#), Program Manager (415) 972-3776
San Carlos Apache Tribe, Tohono O'odham Nation

[Bayla Fisher](#), Program Manager (415) 972-3806
**Phoenix Area, White Mountain Apache Tribe, Tonto Apache Tribe of Arizona,
Yavapai-Apache Nation, Northern San Diego County**

[Jason Gambatese](#), Program Manager (415) 972-3571
Ukiah Area, Fresno Area, Torres Martinez

[Marty Stephens](#), Program Manager (928) 419-6272
Hopi Tribe, Navajo Nation Area
For Water Systems regulated by Navajo Nation EPA, please contact: Navajopublicwater.org

[Annie Wan](#), Program Manager (415) 972-3845
**Southern San Diego County, Colorado River Area, Las Vegas Area, Kaibab Band of Paiute
Indians**

Appendix A: Comprehensive Contaminant Candidate List

- 1,1,1,2-Tetrachloroethane
- 1,1,2,2-tetrachloroethane
- 1,1-Dichloroethane
- 1,1-dichloropropene
- 1,2,3-Trichloropropane
- 1,2,4-trimethylbenzene
- 1,2-diphenylhydrazine
- 1,3-Butadiene
- 1,3-dichloropropene
- 1,3-Dinitrobenzene
- 1,4-Dioxane
- 17-alpha ethynyl estradiol
- 17alpha-estradiol
- 1-Butanol
- 2,2-dichloropropane
- 2,4,6-trichlorophenol
- 2,4-dichlorophenol
- 2,4-Dinitrophenol
- 2,4-dinitrotoluene
- 2,6-dinitrotoluene
- 2-Aminotoluene
- 2-Hydroxyatrazine
- 2-Methoxyethanol
- 2-methyl-Phenol (o-cresol)
- 2-Propen-1-ol
- 3-Hydroxycarbofuran
- 4,4'-Methylenedianiline
- 6-Chloro-1,3,5-triazine-2,4-diamine
- Acanthamoeba
- Acephate
- Acetaldehyde
- Acetamide
- Acetochlor
- Acetochlor ethanesulfonic acid (ESA)
- Acetochlor oxanilic acid (OA)
- Acrolein
- Adenoviruses
- Aeromonas hydrophila
- Alachlor ESA & other acetanilide pesticide degradation products
- Alachlor ethanesulfonic acid (ESA)
- Alachlor oxanilic acid (OA)
- Aldrin
- alpha-Hexachlorocyclohexane
- Aluminum
- Aniline
- Anthraquinone
- Bensulide
- Benzyl chloride
- Bisphenol A
- Boron
- Bromobenzene
- Bromoxynil
- Butylated hydroxyanisole
- Caliciviruses
- Campylobacter jejuni
- Captan
- Carbaryl
- Carbendazim (MBC)
- Chlorate
- Chlordecone (Kepone)
- Chloromethane (Methyl chloride)
- Chlorpyrifos
- Clethodim
- Cobalt
- Cocksackieviruses
- Cumene hydroperoxide
- Cyanobacteria (blue-green algae), other freshwater algae, and their toxins
- Cyanotoxins
- DCPA di-acid degradate
- DCPA mono-acid degradate
- DDE

- Deethylatrazine
- Desisopropyl atrazine
- Desvenlafaxine
- Diazinon
- Dicrotophos
- Dieldrin
- Dimethipin
- Dimethoate
- Disinfection byproducts (DBPs)⁴
- Disulfoton
- Diuron
- Echoviruses
- Enteroviruses
- EPTC (s-ethyl-dipropylthiocarbamate)
- Equilenin
- Equilin
- Erythromycin
- Escherichia coli (O157)
- Estradiol (17-beta estradiol)
- estriol
- estrone
- Ethalfluralin
- Ethinyl Estradiol (17-alpha ethynyl estradiol)
- Ethoprop
- Ethylene glycol
- Ethylene oxide
- Ethylene thiourea
- Fenamiphos
- Fipronil
- Fluconazole
- Flufenacet
- Fluometuron
- Fonofos
- Formaldehyde
- Germanium
- Halon 1011 (bromochloromethane)
- HCFC-22
- Helicobacter pylori
- Hepatitis A virus
- Hexachlorobutadiene
- Hexane
- Hydrazine
- Iprodione
- Legionella pneumophila
- Linuron
- Lithium
- Malathion
- Manganese
- Mestranol
- Methamidophos
- Methanol
- Methomyl
- Methyl bromide (bromomethane)
- Methyl tert-butyl ether (MTBE)
- Methylmercury
- Methyl-t-butyl ether (MTBE)
- Metolachlor
- Metolachlor ethanesulfonic acid (ESA)
- Metolachlor oxanilic acid (OA)
- Metribuzin
- Microsporidia (Enterocytozoon & Septata)
- Molinate
- Molybdenum
- Mycobacterium abscessus
- Mycobacterium avium
- Mycobacterium avium intracellulare (MAC)
- Naegleria fowleri
- Naphthalene
- Nitrobenzene
- Nitroglycerin
- N-Methyl-2-pyrrolidone
- N-nitrosodiethylamine (NDEA)
- N-nitrosodimethylamine (NDMA)
- N-nitroso-di-n-propylamine

- (NDPA)
- N-Nitrosodiphenylamine
- N-nitrosopyrrolidine (NPYR)
- Oxyfluorfen n-Propylbenzene
- Organotins
- o-Toluidine
- Oxirane, methyl
- Oxydemeton-methyl
- Per-and polyfluoroalkyl substances (PFAS)
- Perchlorate
- Perfluorooctanesulfonic acid (PFOS)
- Perfluorooctanoic acid (PFOA)
- Permethrin
- Phorate
- Phosmet
- Phostebupirim
- p-Isopropyltoluene (p-cymene)
- Profenofos
- Prometon
- Propachlor
- Propanil
- Propargite
- Propazine
- Propoxur
- Pseudomonas aeruginosa
- Quinoline
- RDX
- RDX (Hexahydro-1,3,5-trinitro-1,3,5-triazine)
- Salmonella enterica
- sec-Butylbenzene
- Nonylphenol
- Norethindrone (19-Norethisterone)
- Norflurazon
- Shigella sonnei
- Sodium
- Strontium
- Sulfate
- Tebuconazole
- Tebufenozide
- Tellurium
- Terbacil
- Terbufos
- Terbufos sulfone
- Thiamethoxam
- Thiodicarb
- Thiophanate-methyl
- Tri-allate
- Triazines & degradation products of triazines
- Tribufos
- Tributyl phosphate
- Triethylamine
- Trimethylbenzene (1,2,4-)
- Triphenyltin hydroxide (TPTH)
- Tris(2-chloroethyl) phosphate (TCEP)
- Tungsten
- Urethane
- Vanadium
- Vinclozolin
- Ziram

Appendix B: Preliminary Engineering Report Template

A project submitted for construction funding must have a completed preliminary engineering report (PER) that follows a standardized template. The standardized PER makes it easier for Tribes to receive funding from more than one federal source and simplifies coordination between federal agencies.

A PER should clearly describe the system's present situation, analyze 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.

Additionally, a PER must include a rough calculation of per-capita, treated water demand. One of the following calculation methods may be selected:

1. Actual gallons per residential connection as documented from meter readings / census-reported persons per home
2. Total residential treated water demand / population served
3. Other method as approved by EPA

If this calculation yields a per-capita usage greater than 150 gallons per person per day, then a full analysis of water consumption is required.

The level of effort and depth of analysis required for the PER are proportional to the size and complexity of the proposed project.

The linked [PER template](#) must be used.

Appendix C: Sample Grant Programmatic Conditions

- A. **Performance Reporting.** The recipient agrees to submit quarterly project performance reports to the EPA Project Officer beginning three months after initiation of the agreement that include information for the following:
- A comparison of actual accomplishments to the objectives established in the assistance agreement work plan for the period. Where the output of the project can be quantified, a computation of the cost per unit of output must be provided if requested by EPA;
 - The reasons why established goals were not met, if appropriate; and
 - Additional pertinent information, including, when appropriate, analysis and explanation of cost overruns or high unit costs.

Significant developments. Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the recipient must inform EPA or subrecipient as soon as the following types of conditions become known:

- Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
- Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

The quarterly progress reports shall also include a written report on all tasks currently in progress and planned for the next quarter. The quarterly reports shall be due thirty (30) days following the end of the quarter. Quarters shall be defined as January-March, April-June, July-September, and October-December.

- B. **EPA Access.** EPA, Inspectors General, and the U.S. Government Accountability Office or any of their duly authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts in accordance with 2 CFR §200.336. The right also includes timely and reasonable access to the recipient's personnel for the purpose of interview and discussion related to such documents.
- C. **Procurement.** All procurement actions under this grant must comply with the procurement requirements in 2 CFR Part 200, *Procurement Standards*; 2 CFR Part 1500, and 40 CFR Part 33

Recipient must also ensure that every purchase order or other contract includes any clauses required by Federal statutes, regulations, and Executive Orders pursuant to 2 CFR §200.326.

- D. **Toxic and Hazardous Substances.** The recipient shall implement all mitigation measures pursuant to 29 CFR 1926.1101 to minimize asbestos exposure.
- E. **As-builts.** The recipient shall prepare up-to-date "as-builts" of the project and submit copies to the EPA Project Officer upon completion of the project.
- F. **Changes of Scope.** Minor changes in the project work that are consistent with the objectives of the project and within the scope of the grant agreement do not require the execution of a formal grant amendment before the recipient's implementation of the

change. However, the amount of the funding provided by the grant agreement may only be increased by a formal grant amendment. The recipient must obtain EPA written approval before implementing changes which alter the project performance standards; change the scope or objectives of the project or substantially alter the design of the project; significantly delay or accelerate the project schedule; substantially alter the facilities plan, design drawings and specifications, or the location, size, capacity, or quality of any major part of the project.

- G. **Budget category changes.** Prior written approval is required for all budget category transfers from non-construction to construction or vice-versa or within such categories, and for requests for no-cost extensions.
- H. **Unforeseeable changes.** The recipient shall notify the EPA Project Officer at any point in time should any significant developments arise, such as those that might alter or delay the project, as soon as the recipient becomes aware of such developments.
- I. **Plan of Operation.** The Recipient shall provide a draft plan of operation covering at least five years for the project(s) funded by this grant. The draft plan of operation shall address development of: operation and maintenance manuals; and an adequate budget for operations, staffing, route maintenance, and replacement costs. The plan of operation must be finalized and implemented (as applicable) prior to the completion of the grant funded projects. A draft plan of operation shall be submitted at 75% of expenditure of grant funds.
- J. **Project Performance Standards: One-Year Report.** On the date one year after the initiation of operation of the project, the recipient shall certify to the EPA Project Officer whether the project meets the project performance standards. If the EPA Project Officer or the recipient concludes that the project does not meet the project performance standards, the recipient shall submit the following: (1) A corrective action report which includes an analysis of the cause of the project's failure to meet the performance standards (including the quantity of infiltration/inflow proposed to be eliminated), and an estimate of the nature, scope and cost of the corrective action necessary to bring the project into compliance; (2) The schedule for undertaking in a timely manner the corrective action necessary to bring the project into compliance; and (3) The scheduled date for certifying to the EPA Project Officer that the project is meeting the project performance standards. The recipient shall take corrective action necessary to bring a project into compliance with the project performance standards at its own expense.
- K. **Applicability.** The recipient agrees that it will expeditiously initiate and complete the project work for which assistance has been awarded under this agreement in a timely manner and in accordance with all applicable provisions of 2 CFR Part 200, and applicable EPA policies. The recipient warrants, represents, and agrees that it and its contractors, subcontractors, employees, and agents will comply with: (1) all applicable provisions of 2 CFR Part 200, and applicable EPA policies; and (2) any special conditions set forth in this assistance agreement or any assistance amendment.
- L. **Archeological Resource.** Should the discovery of a potential archeological or historical resource occur during construction, all work in the area of the find will stop and a qualified archeologist will be called in to evaluate the situation and make recommendations to the EPA Project Officer. The EPA Project Officer will then determine what will be necessary for construction to proceed.

- M. **Termination.** This award may be terminated for failure of the Recipient to make sufficient progress so as to reasonably ensure completion of the project within the project period, including any extensions. The EPA Project Officer will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period, and/or the availability of funds necessary to complete the project.
- N. **Cross-Cutting Requirements.** The recipient must comply with federal cross-cutting requirements. These requirements include, but are not limited to the Disadvantaged Business Enterprises requirements found at 40 CFR Part 33; nondiscrimination statutes, including Title VI of the Civil Rights Act of 1964, and EPA's implementing regulations found at 40 C.F.R. Parts 5 and 7; OSHA Worker Health & Safety Standard 29 CFR 1910.120; the Uniform Relocation Act; National Historic Preservation Act; Endangered Species Act; Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333) the Anti-Kickback Act (40 USC 276c); and Section 504 of the Rehabilitation Act of 1973, as implemented by Executive Orders 11914 and 11250.
- O. **Cybersecurity:** (a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable Tribal law and policy cybersecurity requirements.
- P. (b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure. For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.
- Q. If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) no later than 90 days after the date of this award and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.
- R. (2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.331(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

Appendix D: Sample Interagency Agreement between the U.S. Environmental Protection Agency and the Indian Health Service for Tribal Drinking Water Facilities Construction

I. ADMINISTRATIVE TERMS AND CONDITIONS

This Interagency Agreement (IA) provides for the coordination between the Environmental Protection Agency (EPA) Region 9 Drinking Water Infrastructure Grants – Tribal Set Aside (DWIG-TSA) Program and the Indian Health Service (IHS) Sanitation Facilities Construction Program. This IA applies to funds appropriated to the EPA under section 1452(i) of the Safe Drinking Water Act, which the EPA intends to transfer to the IHS under this IA.

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

Funds transferred by EPA to the IHS under this IA may only be used in agreements authorized by Indian Sanitation Facilities Act, 42 U.S.C. 2004a. IHS Area Offices may use up to 15 percent of the IA project funds allocated to them to support management and oversight of each project funded by this IA.

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

A. Resolution of Disagreements

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

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

B. Duration of Agreement and Termination Procedures

This agreement shall continue in effect until IHS or EPA provides written notice of termination, or when a project (or projects) funded under this agreement are completed or are no longer needed for the purpose identified in the Project Documents. Any funds that are obligated up to and on the date of termination will remain obligated to the project(s) identified in this agreement. Notice shall be given to the other party at least 60 days in advance of a termination date.

As per section 4.3.2 of EPA's "Interagency Agreement Policies, Procedures, and Guidance Manual 2008" the total duration of the project period for an IA may not exceed 7 years unless (1) there is statutory or regulatory authorization for a longer period, (2) a signed waiver from an EPA Director, Office of Grants & Debarment (OGD), or designee, granting an exception is obtained, or (3) in the case of an allocation (appropriation) transfer, a shorter period is mandated, i.e., 5 years. This durational limitation includes both the original period of performance and any extensions. The initial determination of the appropriate length of the project period should take this limitation into account. (For example, an IA between IHS and EPA normally has a 5-year term. The IA can be extended upon approval of the parties for up to two more years for a total IA term of 7-years. An IA cannot be extended beyond the 7-year limit unless a waiver is granted by the EPA Director, Office of Grants & Debarment.) To exceed the 7-year policy limitation, a waiver request must be submitted in writing by the appropriate EPA Senior Resource Official to OGD. The OGD Director, or designee, may approve waivers on a class or individual basis because of national security concerns, circumstances of unusual or compelling urgency, unique programmatic considerations, or because the waiver would be in the public interest.

C. Sufficient Progress

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

D. Cost Collection upon Cancellation

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

E. IAs with Contracts or Procurement

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

F. Fiscal and Project Reporting Requirements

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

G. Audit Findings

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

II. PROGRAMMATIC TERMS AND CONDITIONS

A. Authority and Purpose

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

B. EPA Responsibilities

1. The EPA Regional Office shall designate a representative to coordinate its participation in projects (Regional Program Coordinator). This representative shall formally advise the respective IHS Area Office of this designation.
2. As resources permit the EPA shall provide to the IHS and Tribes technical assistance as needed to successfully meet applicable program requirements.
3. The EPA Regional Office will ensure that the proposed projects are in accordance with the Safe Drinking Water Act, annual national guidance and the Drinking Water Infrastructure Grants Tribal Set-Aside Program Final Guidelines October 1998 and the Addendums.
4. EPA Regional Office will ensure that water collection and analysis methodologies (as applicable) are in accordance with the IHS/EPA jointly developed Quality Assurance Project Plan (QAPP).
5. EPA is responsible for any distribution within the EPA of the final technical and financial report provided to the respective EPA Regional Program Coordinator after the construction phase completion.

6. The EPA will not be a signatory on any Project Summaries or Memorandums of Agreement.
7. Where appropriate, EPA Regions shall provide comments to IHS Area Offices on the design and planning documents associated with projects funded by the IA within 30 days of receiving said documents.
8. EPA Regions shall monitor construction progress with: data from the IHS database, discussions with the IHS Area Offices and field site visits as necessary to ensure the level of expended funds is reasonable given the reported milestone dates. The EPA will consult with the IHS Area Office quarterly to discuss project status.
9. The EPA Regions will participate in the final project inspection, as deemed necessary and resources permitting. At project completion, the EPA Region will review the final technical and financial reports provided by the IHS Area Office and will initiate the necessary EPA close-out process.
10. The EPA Regions will acknowledge and respond to IHS Area invitations to participate in project activities within 10 days of receipt.

C. IHS Responsibilities

1. The IHS shall implement and execute projects funded under this IA using its administrative policies and procedures as described in the Indian Health Manual, Part 5, Chapter 2, Memorandum of Agreement.
2. Project Documents (Project Summary/ Memorandum of Agreement or Arrangements as described in 42 U.S.C. 2004a) will be developed by the IHS Area Office, in consultation with the respective Tribes and respective EPA Regional Office.
3. Unless otherwise stipulated in the project documents, the IHS shall be the lead agency in assuring compliance with the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and other applicable Federal requirements only if the EPA funds are deposited in the IHS financial system (UFMS).
4. Quarterly progress reports will be available to EPA through the IHS STARS system as stated in I.F., Fiscal and Project Reporting Requirements. Should the need arise and if the agencies mutually agree, the report may be supplemented.
5. The EPA Regional Office shall be formally notified of and invited to participate in the conceptual design meeting, the final plans and specification review, and the final inspections for projects in which EPA funds are utilized. IHS shall notify the EPA at least 30 business days prior to these events to allow optimal participation. Notification will be by e-mail.
6. As applicable, upon completion of each project under this IA, all rights title and interest to the provided sanitation facilities shall be transferred to the Tribe or to a responsible entity identified by the Tribe in accordance with the Project Documents. Each respective IHS Area Office shall

make such arrangements as they determine necessary for the ownership and operation and maintenance of the completed facilities.

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

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

9. For an EPA funded project for a pilot water treatment study or for a specific hydraulic network model calibration, the IHS will prepare an individual project specific Quality Assurance Project Plan (QAPP) in accordance with EPA Guidance for Quality Assurance Project Plans (QA/G-5) (EPA 2001) which can be found at <http://www.epa.gov/QUALITY/qs-docs/r5-final.pdf>. The QAPP must be submitted for review and approval by the EPA OW QA Officer through the EPA IA Project Officer, who must approve D-6 the Quality Assurance procedures or standards in writing. EPA will have 60 calendar days to approve the QAPP submitted by IHS, after that time the QAPP will be considered final.

10. Restrictions on FY19 and Later Funding for Corporations with Unpaid Federal Tax Liabilities and Felony Convictions

This interagency agreement (IA) obligates and transfers or advances EPA funds appropriated under Public Law 116-6 (the Consolidated Appropriations Act, 2019). As a result, this IA is subject to the provisions contained in the Consolidated Appropriations Act, 2019, Public Law 116-6, Division D, Title VII, Sections 744 and 745, regarding unpaid federal tax liabilities and federal felony convictions, which also have been included in prior appropriations acts.

The IHS is also subject to the same sections of the Act, in accordance with Department of Health & Human Services acquisition policies. The IHS will forward to the EPA Award Official, within 45 days, any documentation supporting an award where a written determination was made by the agency debaring and suspending official that suspension or debarment was considered but is not necessary to protect the interests of the Government.

11. Advance Payment for Indian Health Service Interagency Agreements

This Interagency Agreement is handled through Advance Payment and is tracked in IHS' Sanitation Tracking and Reporting System (STARS). Therefore, the reporting instructions in Administrative Condition F, *Fiscal and Project Reporting Requirements*, and Programmatic Condition C, *IHS Responsibilities*, Section 4, should be followed closely.

Financial Inquiries may be emailed to CFC_Fed_Pay@epa.gov or sent to the following address:

**U.S. EPA CFC
ATTN: Elizabeth McGuffey
26 W. ML King Dr.**

Cincinnati, OH 45268-7002

12. Foreign Technology Prohibitions Under NDAA Section 889

All procurements under this IA must comply with Section 889 (a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (P.L. 115-232) prohibiting acquisition of certain telecommunications and video surveillance services or equipment.

If EPA requires equipment identified in the Act, EPA will provide the servicing agency with all required documentation prior to the acquisition of said equipment or services.

13. Build American, Buy America (BABA) Requirements

The IHS shall be the lead agency in assuring compliance with Build America, Buy America requirements of the Infrastructure Investment and Jobs Act, P.L. 117-58, to the extent applicable, for projects managed through an IA between IHS and EPA. To minimize duplicative efforts among Federal agencies, increase funding distribution efficiencies and reduce burdens on beneficiaries, the IHS shall be considered the 'Cognizant Agency for Made in America'.