

**NEW MEXICO
CLEAN WATER STATE REVOLVING FUND
INTENDED USE PLAN FOR
BASE FUNDING, BIPARTISAN INFRASTRUCTURE LAW
FUNDING, AND EMERGING CONTAMINANT FUNDING
STATE FISCAL YEAR 2024**

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Table 1 Cash Flow Projections Graph

Table 2 Project Priority List

I. FUND ESTABLISHMENT-INSTRUMENTALITY OF THE STATE, Clean Water Act 33 USC §1383 (a) and (b)

The New Mexico Legislature created a revolving loan fund (Fund) through enactment of the Wastewater Facility Construction Loan Act (Loan Act), Chapter 74, Article 6A, NMSA 1978, as amended. The purpose of the Loan Act “is to provide state agencies, local authorities, interstate agencies and other qualified borrowers in New Mexico with low-cost financial assistance in the construction of necessary wastewater facilities and other eligible projects through the creation of a self-sustaining program to improve and protect water quality and public health” §74-6A-2 NMSA (1978).

The Fund is administered by the New Mexico Environment Department Construction Programs Bureau (NMED CPB) as agent for the Water Quality Control Commission (WQCC). State money is appropriated to NMED CPB to carry out the provisions of the Loan Act and is used to match Federal funds allocated to New Mexico pursuant to the Federal Water Pollution Control Act, also known as the Clean Water Act (CWA). Federal capitalization grants, loan principal, and interest repayments as well as interest earnings on the Fund balance are deposited into the Fund. Administrative fee and refinance fee revenues are deposited into a separate dedicated Clean Water Administrative Fund.

The WQCC is New Mexico’s water pollution control agency and has adopted regulations, application procedures, and a project priority ranking system pursuant to the Loan Act, used by NMED CPB in administering the loan program. The New Mexico Water Quality Act §74-6-4 NMSA (1978) identifies the duties and powers of the WQCC related to loans and grants. The provision states:

“The Commission:

- A. may accept and supervise the administration of loans and grants from the federal government and from other sources, public or private, which loans and grants shall not be expended for other than the purposes for which provided;”

This document will provide information regarding the intended uses of the Clean Water State Revolving Fund annual capitalization grant (Base), the Bipartisan Infrastructure Law (BIL) general supplemental funding (Supplemental), and the BIL emerging contaminants funding (EC).

II. FUND GOALS, Clean Water Act 33 USC §1386 (c)(2)

A. Long-term Goals for State Fiscal Year 2024:

1. Provide local authorities, state agencies, interstate agencies and other qualified borrowers in New Mexico with low-cost financial assistance for the construction of wastewater facilities or other eligible water quality projects by maintaining a self-sustaining Clean Water State Revolving Fund (CWSRF).
2. Maintain the CWSRF into perpetuity by including repayment and investment interest to the fund (Table 1, Cash Flow Projections).

3. Maintain the fiscal integrity of the CWSRF.
4. Encourage green projects by providing funding opportunities for eligible projects that support energy efficiency, water efficiency, green infrastructure, and environmental innovation.
5. Make funding available to potential borrowers who meet the criteria of one of the twelve CWSRF eligibilities found in 33 USC §1383 (c) of the CWA as amended and as it applies to New Mexico.
6. Incorporate the BIL funding into the existing program.
7. Provide available additional subsidy to eligible entities with an emphasis on those entities that meet the affordability criteria.
8. Pursue funding scenarios as afforded by state statute to fully maximize lending opportunities.

B. Short-term Goals for State Fiscal Year 2024:

1. Complete the annual audit, intended use plan and annual report in a timely manner. CWA 33 USC §1386 (b)(c)(d).
2. Apply for available federal allotments as follows:
 - a. FFY 2023 BIL General Supplemental no later than June 15, 2023.
 - b. FFY 2023 CWSRF Base capitalization grant no later than September 30, 2023.
 - c. FFY 2023 BIL Emerging Contaminants no later than September 30, 2023.
3. Identify applicants that meet the state's affordability criteria.
4. Identify applicants from the SFY 2024 project priority list (PPL) to receive funding, including additional subsidization from all current funding sources. Award all available additional subsidy.
5. Utilize the 2% technical assistance authorized by the BIL in conjunction with the Base capitalization grant and the BIL General Supplemental grant.
6. Identify green projects equal to no less than 10% of each funding allotment.
7. Complete the environmental benefits in the Clean Water Benefits Reporting System (CBR) quarterly.
8. Maintain or improve the State's average of financial indicators that are reported and compiled in the National Information Management System (NIMS).
9. Pursue non-traditional financing options.
10. Execute binding commitments as required by each grant. BIL General Supplemental requires 110% of the grant, CWSRF Base requires 120%, and Emerging Contaminants requires 100%. NMED CPB accepts applications year-round and updates the Project Priority List quarterly.

III. PLAN FOR THE USE OF CWSRF FUND 12100

As demonstrated with the available resources in Figure 1 and in the Cash Flow projections in Table 1, NMED CPB has a growing cash balance. It is the goal of NMED CPB to fully utilize available resources. To achieve this goal NMED CPB lowered interest rates, beginning in FY2023, to 0.01% for all public borrowers that do not qualify for 0%. NMED CPB will maintain this interest rate for FY2024. Project and borrower eligibilities were broadened in previous years and NMED continues marketing efforts to convey this information. NMED

CPB currently accepts applications year-round and uses a cloud-based communication platform to reach potential borrowers. In addition, NMED is contracting with Northbridge Environmental to assist in marketing the CWSRF in New Mexico. NMED is also utilizing the opportunity afforded by the Clean Watersheds Needs Survey to introduce the CWSRF to prospective borrowers. As in previous years, NMED CPB will conduct outreach through in person and virtual conferences, work with partners such as the New Mexico Municipal League, the Association of Counties, New Mexico Councils of Government and Economic Development Districts, New Mexico Rural Water Association, and the Rural Community Assistance Corporation to reach potential borrowers. The NMED CPB will explore other marketing and outreach avenues as they present themselves. The NMED CPB continues to pursue opportunities with New Mexico’s largest communities, including Albuquerque-Bernalillo County Metropolitan Water Authority and Rio Rancho. These communities have traditionally sold bonds to fund projects. It is our intent to show that with the low interest rate of 0.01%, these entities can achieve savings for their utilities and ultimately their rate payers. NMED CPB will continue these efforts and pursue other means to fully utilize and deploy the resources available through the CWSRF.

Figure 1 demonstrates the Fund’s inflows and outflows. NMED CPB currently has four projects that have accepted offers and are in various stages of executing agreements and two projects where offers have been made and are pending the applicant’s decision. The Project Priority List includes \$379 million in projects but debt capacity for most of the projects is prohibitive. NMED will work with all of these applicants to try and secure future agreements for the remaining \$77 million that is unobligated.

Figure 1	
Sources and Uses SFY 2024 as of August 29, 2023	
Projected Beginning Cash Balance July 1, 2023	\$182,374,885
Projected Sources during SFY 2023:	
FFY 2023 Base Allotment	\$3,683,000
FFY 2023 Base Allotment State Match	\$736,600
FFY 2023 BIL General Supplemental Allotment	\$10,233,000
FFY 2023 BIL General Supplemental State Match	\$1,023,300
FFY 2022 BIL Emerging Contaminants	\$459,000
FFY 2023 BIL Emerging Contaminants	\$1,043,000
SFY 2024 Repayment Principal and Interest-Projected	\$14,006,811
SFY 2024 Interest on Investments-Projected	\$1,500,000
FFY2022 DWSRF Emerging Contaminant Transfer	\$2,493,150
Total Sources	\$217,552,746
Projected Uses	
Budgeted Admin Expense from CWSRF Fund	\$640,000
Projected Disbursements for SFY 2024	\$17,553,387
Balance to be disbursed for active projects	\$92,333,223
Balance for projects that have accepted offers	\$2,016,000
Balance for projects with offers pending	\$28,460,000
Balance for future projects	\$76,550,136
Total Projected Uses	\$217,552,746

IV. STATE MATCH 33 USC §1382 (b)

The State of New Mexico has proposed, and EPA Region 6 has accepted, that NMED will expend all the required CWSRF state match funds prior to using the federal funds. Once the total required state match for each CWSRF capitalization grant, Base or BIL, has been expended, the State will draw down the federal funds for each respective CWSRF capitalization grant. This drawing arrangement is for the convenience of the state and does not alter any other provision that would have otherwise been applicable if federal funds had been drawn proportionately with State funds.

During the 2023 Legislative Session held January 17, 2023, through March 18, 2023, the New Mexico Legislature appropriated \$3,700,000 from the Public Projects Revolving Fund (PPRF) for state match funds for the FFY 2023 base allotment and BIL General Supplemental allotment. The Emerging Contaminants allotment does not require a state match. NMED will request the deposit from the PPRF to occur during the first two weeks of July 2023. This amount will be sufficient for both allotments.

V. PROGRAM ADMINISTRATION

Reasonable costs for administering the loan program are paid out of the loan fund in conformance with 33 USC 1383(d)(7) and 74-6A-4, NMSA 1978, as amended. NMED CPB uses one-fifth percent of the current valuation of the CWSRF fund for the costs of administering the fund. As of June 30, 2022, the audited valuation (Total Net Position) of the CWSRF fund was \$361,325,034 allowing \$722,650 to be used for administration of the program in SFY2. NMED CPB intends to utilize approximately \$640,000 in State Fiscal Year 24.

Pursuant to Subsection C (1) and (2) of 20.7.5.14 NMAC the NMED CPB may assess an administrative fee not to exceed five percent of the total loan amount. The fee is variable, dependent upon the term and interest rate of the loan and is earned annually on the principal amount. The administrative fee is included in the interest rate charged to borrowers and does not add to the financial burden of the borrowers. This administrative fee is deposited into the Clean Water Administrative Fund (Admin Fund) and is budgeted and tracked separately from the Loan Fund. The fee serves to perpetuate the administration of the revolving loan fund with no fiscal impact on the State's general fund or any material impact on the financial strength of the fund itself. There will be no administrative fee applied to loans with an interest rate of 0.01%. The expenses budgeted for use in SFY 2024 from the Admin Fund will be used for eligible expenses and will be tracked for EPA's review and verification.

In SFY 2024, the Admin Fund has the following activity projected:

Admin Fund SFY 2024 Activity	Amount
Projected Cash Balance beginning of as of July 1, 2023	\$5,266,322
Estimated investment interest earned	\$80,000
Loan Administrative Fees anticipated to be collected in SFY 2024	\$284,781
Program operating expenses budgeted from Fund 32700 in SFY 2024	\$982,000
Projected Balance end of SFY 2024	\$4,649,103

VI. CASH DRAWS AND BINDING COMMITMENTS

Binding Commitments: 33 USC §1382 (b) (3). The State certifies that it will enter into binding commitments in accordance with the grant terms and conditions of each grant awarded. NMED CPB considers a commitment to be binding when the funding agreement is signed by both parties. To the extent possible, NMED's goal is to establish commitments as indicated in the schedule below:

Source	Commitment Date
CWSRF Base Allotment and State Match-SFY2024 (FFY2023) 120%	3/3/2025
CWSRF BIL General Supplemental and Match-SFY2024 (FFY2023) 110%	12/31/2024
CWSRF BIL Emerging Contaminants-SFY2024 (FFY2023)	9/30/2025
DWSRF Emerging Contaminant Transfer (FFY2022)	12/31/2024

Method of Disbursement: The method of disbursement for all capitalization grants is to expend 100% of the required state match and then expend all federal funds. NMED will disburse funds to borrowers before requesting capitalization grant draws.

Capitalization Grant Name	Payment Date	Cap Grant Amount	Match Amount	Total Amount for Binding Commitments	Required Binding Commitment Date, 12 months after Payment Date
FFY23 CWSRF Base	4/1/2024	\$3,683,000	\$736,600	\$4,419,600	3/30/2025
FFY23 BIL General Supplemental	1/1/2024	\$10,233,000	\$1,023,300	\$11,256,300	12/31/2024
FFY23 Emerging Contaminants	10/1/2024	\$1,043,000	\$0	\$1,043,000	9/30/2025
FFY22 DWSRF Emerging Contaminant Transfer	1/1/2024	\$2,493,150	\$0	\$2,493,150	12/31/2024

VII. ASSURANCE AND SPECIFIC PROPOSALS Clean Water Act 33 USC §1386 (c) (4)

Agreement to Accept Payment: 33 USC §1382 (b)(1) The State submits the following schedule for grant payments:

- FFY 23 BIL Supplemental: Full Amount 01/01/2024
- FFY23 CWSRF Base Capitalization Grant: Full Amount 04/01/2024
- FFY23 BIL Emerging Contaminants: Full Amount 07/01/2024

Timely Expenditures: 33 USC §1382 (b) (4). The State certifies that it intends to expend all funds in an expeditious and timely manner. NMED shares the concern of the EPA with the lack of full utilization of the fund and will continue to work toward full utilization. Last fiscal year, NMED lowered the interest rate for borrowers to 0.01% unless they qualified for 0%. At the start of FY23, the Fund had an available cash balance of \$86.9 million representing an obligation rate of 52%. Currently, the Fund has an available cash balance of \$54.4 million representing an obligation rate of 70%. The NMED CPB will continue expanding outreach. We have created a marketing position and are in the process of hiring. We will use information from the Clean Watershed Needs Survey to expand our outreach. In addition, we are working with Northbridge Environmental on marketing initiatives.

First Use of Funds for Enforceable Requirements: 33 USC §1382 (b) (5). NMED CPB agrees that "all funds in the fund as a result of capitalization grants will first be used to assure maintenance of progress, as determined by the Governor, toward compliance with enforceable deadlines, goals, and requirements of the Act . . . "

Eligible Treatment Works: 33 USC §1382 (b) (6) eligible treatment works constructed in whole or in part with this assistance will meet the requirements of the National Environmental Policy Act, pursuant to 33 USC §1371 (c)(1) and Davis-Bacon Labor Standards pursuant to 33 USC §1372.

Procurement Assurances: 33 USC §1382 (b) (14) The State certifies that all architectural and engineering (A/E) contracts for equivalency projects or projects awarded additional subsidy in the form of grant will comply with the elements of the procurement processes for A/E services as identified in 40 U.S.C. 1101 *et seq.* or the State equivalent.

Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirement: NMED CPB files a FFATA sub-award report by the end of the month following the month that a loan agreement greater than \$25,000 is signed. Prior to SFY2023, NMED CPB applied all federal requirements to all projects, however with the onset of the Build America Buy America Act, NMED CPB will apply all federal requirements to "equivalency" projects. NMED CPB has worked to cleanly delineate the requirement categories, including the requirements for projects reported directly in FFATA. We will continue to work through and modify this process as needed to ensure borrowers and staff have appropriate guidance.

Build America Buy America: NMED CPB has reviewed the requirements of the Build America Buy America Act (BABA) and has language in the Assistance Agreement and the Technical documents to address the requirements, along with certification forms.

Enhancing Public Awareness: This requirement was applied to all borrowers prior to SFY2023. Beginning in SFY2023, and moving forward, this will be applied as an “equivalency” requirement only. Additionally, any projects funded by BIL will be required to comply with the BIL signage requirements.

All other Certifications and Assurances, if not in this section or document, are in the current Operating Agreement.

VIII. CRITERIA AND METHOD ESTABLISHED FOR DISTRIBUTION OF FUNDS, Clean Water Act 33 USC §1386 (c)(5)

Pursuant to the Loan Act, the WQCC adopted regulations describing eligibility requirements for financial assistance, application procedures, the priority ranking system and administration of the loan program and Fund. The current priority ranking system was adopted by the WQCC on September 8, 2020. NMED CPB staff, Ground Water Quality Bureau, and Surface Water Quality Bureau evaluate and rank eligible projects. (See Table 2, Project Priority List). All CWA §319 activities must implement the state’s §319 Nonpoint Source Management Plan. Public notice of the Project Priority List (PPL) process is provided through a Press Release, by email to the CWSRF distribution list, on the NMED CPB website, through outreach to NM Councils of Governments and Economic Development Districts, the New Mexico Municipal League, the New Mexico Association of Counties, to the Rural Water Association, the Rural Community Assistance Corporation and to the New Mexico Department of Finance and Administrations Local Government Division section. NMED CPB accepted public comments regarding the SFY 2024 PPL from June 12-23, 2023. No comments were received.

Projects must be on the current New Mexico state fiscal year PPL or a previous priority list, to be eligible for funding. It is the policy of NMED CPB to make loans considering the following circumstances:

1. Willingness to accept a loan.
2. Financial capability of the community to service the loan.
3. The ability of the community to operate and maintain the proposed project.
4. Readiness to proceed.

In addition to the above considerations, NMED CPB evaluates applicants’ ability to meet 33 USC §1383 (i) CWA, Affordability Criteria. NMED CPB utilizes 100% of available additional subsidization to make projects as affordable as possible.

The NMED may choose to bypass, or skip, higher ranking projects for projects that are lower ranked but meet the above stated criteria. Projects that are bypassed and can demonstrate they are actively working to meet the criteria may stay on the list to receive future funding.

Applicants are encouraged to discuss projects and financials with the NMED CPB team members prior to application. The NMED CPB team will provide guidance regarding eligibility, program requirements, and project/financial readiness.

Application to the CWSRF: A CWSRF application must be completed. Applications may be submitted to the NMED electronically, by e-mail, over the phone, or by mail. NMED CPB will assist applicants to complete the application and to submit any documentation needed.

Pursuant to the Loan Act a loan shall be made for a period not to exceed thirty (30) years. The 30-year repayment term cannot exceed the useful life of the project. Documentation from the borrower must be provided to demonstrate the useful life of all construction projects.

The base interest rate for the CWSRF may be determined annually by the WQCC or the rate can be left unchanged. The base rate is the rate applied to eligible borrowers other than local authorities and state agencies. Local authorities encompass municipalities, counties, mutual domestic water consumers associations, water, and sanitation districts, and recognized Indian tribes, among others. Local authority interest rates and interest rate conditions are set by NMED in policy and reported to the WQCC at the beginning of each state fiscal year. Current policy sets the interest rate at 0.01% for all local authorities that do not qualify for 0%. Local authorities are eligible for a 0% rate when their per capita income (PCI) is less than 75% of the statewide average PCI and their wastewater system user rates are greater than 1.82% of the PCI. The interest rate for a state agency is the lowest interest rate above 0%.

Funding assistance may be offered as loan, loan/additional subsidy, or 100% additional subsidy. Additional subsidy is offered based on the applicants: 1. Affordability Criteria score, 2. Financial capability, and 3. Availability of subsidy. It is the intent of NMED to utilize additional subsidization to its fullest extent.

Loans are set up to be repaid in annual installments. Borrowers may prepay the loan or any portion of the loan at any time. No penalty is charged for prepayment of loan principal. NMED CPB prepares repayment schedules for the borrower. The first annual installment is due no later than one (1) year after completion of the project.

Cash flow models are prepared annually to review fund. Modeling allows NMED CPB to evaluate the CWSRF's ability to make future loans. The State maintains the long-term health of the Fund by adding the repayment interest and investment interest to the revolving fund. NMED CPB does not plan on leveraging in SFY2024.

Disadvantaged Communities: NMED CPB defines disadvantaged communities as those with a per capita income that is less than the statewide average or that meet the Affordability Criteria. NMED evaluates affordability criteria for every applicant. Through other New Mexico funding programs CPB is involved with, CPB is acutely aware of disadvantaged community status throughout New Mexico. The NMED CPB works collaboratively with the other state funding programs to maximize "grant" funding for CWSRF customers. Doing so

builds trust and camaraderie with New Mexico's underserved entities. Through this collaboration more projects get completed for disadvantaged communities.

Resiliency: The NMED CPB has added a question about resiliency to the CWSRF application, specifically focusing on issues such as climate change, natural disasters, bioterrorism, and cyber-attacks. In recent years, climate change issues and subsequent disasters in the form of forest fires, have devastated New Mexico. These issues in particular are hard to fund because of the lack of a revenue stream. Other resiliency issues, such as bioterrorism defenses and cybersecurity, add to the cost of projects in a time where basic project costs are soaring. The NMED CPB will work to implement funding strategies to encourage these types of projects. NMED is currently funding multiple stormwater projects that have come about to address flooding due to increasingly severe monsoon seasons, Storm water projects include the City of Santa Fe, the Middle Rio Grande Conservancy District, the City of Anthony, and the City of Hatch. The Clean Watersheds Needs Survey has recently been completed and is currently in review. Many resiliency projects were identified during the survey. NMED CPB will reach out to the entities identified in the CWNS and work to establish a funding pipeline.

IX. ADDITIONAL REQUIREMENTS

2% Technical Assistance: The BIL allows for the CWSRF programs to utilize 2% of the capitalization grants to assist rural and small publicly owned treatment works. The NMED CPB is currently executing a Memorandum of Agreement with the University of New Mexico Environmental Finance Center for specific technical assistance tasks associated with assistance to rural and small entities. It is the intent of the NMED to provide technical assistance that includes review of preliminary engineering reports, technical memoranda, assistance with reviewing financial procedures and methodologies, including rate-setting, and community outreach. NMED will also explore providing technical assistance on the importance of asset management including fiscal sustainability plans and operating and maintaining the assets constructed with the CWSRF funds to ensure their future viability.

Federal Requirements: In SFY2023 NMED CPB transitioned from applying all federal requirements to all projects, to a more deliberate approach. Equivalency projects are established through FFATA reporting. The Single Audit Act, DBE, and Environmental Crosscutters are applied to all equivalency projects as well as all projects that receive additional subsidization, which is offered in the form of a grant in the New Mexico CWSRF. Additionally, NMED complies with Davis-Bacon wage rates, American Iron and Steel, and NEPA for all treatment work projects, and accordingly applies Environmental Crosscutters as part of the NEPA review process.

SRF Data System: NMED agrees to enter programmatic data into the National Information Data Base quarterly, at a minimum.

CWSRF-DWSRF Fund Transfers: Pursuant to Section 302 for the Safe Drinking Water Act, the State of New Mexico reserves the authority to transfer up to 33 percent of the CWSRF Capitalization Grant to the DWSRF, or an equivalent from the DWSRF to the CWSRF. NMED intends to utilize this authority in SFY2024 with the transfer of funds from the New Mexico

Drinking Water State Revolving Fund FFY2022 Emerging Contaminant allocation to the New Mexico Clean Water State Revolving Fund Emerging Contaminant Grant. The Bipartisan Infrastructure Law included capitalization grants to address emerging contaminants (EC) in both the DWSRF and the CWSRF programs. The DWSRF intends to transfer \$2,493,150 to the CWSRF.

X. ELIGIBLE PROJECTS TO BE FUNDED, Clean Water Act 33 USC §1386 (c)(1)

Table 2, Project Priority List contains a list of projects eligible for assistance pursuant to the CWA. The Project Priority List includes the applicant’s name, project description, appropriation being used, NPDES and or Groundwater permit number, affordability criteria eligibility.

In accordance with §35.3555 CFR Intended Use Plan:

New Mexico CWSRF reserves to the right to provide for the funding of projects that require immediate attention to protect public health on an emergency basis as declared by the Cabinet Secretary of the New Mexico Environment Department or by the Office of the Governor.

For emergency projects NMED CPB will accept applications and expeditiously rank and score the projects and evaluate available funding. If funding is available, an offer will be made, and public notice will be made on the next quarterly priority list.

XI. GREEN PROJECT RESERVE

Green Project Reserve (GPR): Potentially green projects will count toward the specific allotments associated with the projects. NMED CPB has identified and noted potential Green Project Reserve (GPR) projects on the Project Priority List.

Green Project Reserve Requirements for SFY24 Grants	
Source	GPR Amount
CWSRF Base	\$363,300
CWSRF BIL General Supplemental	\$1,023,300
CWSRF BIL Emerging Contaminants	\$104,300
DWSRF BIL Emerging Contaminants Transfer	\$249,315

NMED believes it will meet GPR requirements.

XII. ADDITIONAL SUBSIDY

Additional Subsidization: The BIL, signed into law in November 2021, amended the CWA, and now mandates additional subsidization of at least 10% but not more than 30% of the base CWSRF capitalization grant. Additionally, the Base Appropriation has congressionally

mandated additional subsidization of 10%, not subject to CWA restrictions. The BIL also mandates 49% of BIL General Supplemental capitalization grants be provided as additional subsidization. NMED CPB's goal is to provide the maximum amount of subsidy allowed by each capitalization grant to borrowers. Additional subsidization for both the base program and BIL funding (up to 30% and mandatory 49% respectively) can be awarded to communities that 1. meet the Affordability Criteria, 2. do not meet the Affordability Criteria but seek assistance for the benefit of a user rate class, or 3. for CWA defined sustainability factors.

In SFY2023, NMED CPB modified the Affordability Criteria system to broaden the applicability of the system to applicants. The system now awards points to any applicant that is considered rural or to any applicant that has lost population in the previous 5 years. Applicants with a per capita income of 80% or less of the national average are awarded points, and points are awarded if the unemployment rate for an area is above the national average. The Affordability Criteria System is on the NMED website at: <https://www.env.nm.gov/funding-opportunities/>

NMED CPB evaluates additional subsidization on a case-by-case basis for those projects that benefit an individual user rate class or implement sustainability factors, including water and/or energy efficiency goals, the mitigation of stormwater runoff, or that encourage sustainable project planning, design, and construction. The impact of additional subsidization on the future of the fund is evaluated annually.

The BIL also provides funding for Emerging Contaminants (EC). The EC capitalization grant is mandated to be awarded as 100% subsidy. NMED CPB has received several inquiries from communities regarding possible EC projects, including one application from Santa Fe County. Santa Fe County, in conjunction with the City of Santa Fe, have applied for funding to investigate, model, and plan for known PFAS contamination identified in the City's wastewater treatment plant sludge, and from Department of Defense activities. Santa Fe County anticipates the project will cost approximately \$5 million.

RESPONSE TO PERFORMANCE EVALUATION REPORT AND AUDIT FINDINGS

NMED CPB received the Performance Evaluation Report (PER) for SFY2022 in May 2023.

The following are the EPA recommendations and NMED CPB's responses:

Timely and Expedient Use of Funds

The EPA recommends that the state continue its efforts to increase the visibility of the NM CWSRF program to all state municipal and private entities. On April 7, 2022, NMED publicly announced that interest rates for municipal applicants would be 0.01% for all who do not qualify for the 0% rate. This represented a significant change in the program, which would allow for a highly competitive rate at a time when municipal bond rates were seeing significant increases. Impacts of this change on the financial indicators are expected to take some time but progress so far is positive. In addition, the ability of the NMED to hire a full-

time marketing staff member and additional technical staff will hopefully provide greater flexibility for the program to reach out into areas where the program historically has not.

EPA Recommendation: *The upcoming SFY24 Intended Use Plan and the SFY23 Annual Report need to address the program progress in these areas more specifically and should propose a timeline for utilizing the uncommitted balances of the fund.*

NMED CPB has reduced the unobligated cash balance by half in the year since implementing the 0.01% interest rate. We have multiple projects on our Project Priority List that can utilize the remainder of the unobligated cash balance. NMED CPB is aware that EPA must look to metrics that are provided in the National Information Management System Database (NIMs) for the utilization of funds. Entering into assistance agreements is the first step the New Mexico CWSRF can take in the road to full fund utilization. We are confident that as projects begin construction, the metrics in NIMs will begin to reflect the fund utilization that is reflected in the obligated cash figures.

EPA Recommendation: *The EPA also continues to encourage the NMED to participate more widely in national, regional, state, and local workshops and conferences to better market the program on a community level. This might include SRF 101 sessions across the state in coordination with the DWSRF program.*

NMED CPB will continue to participate in national, regional, state, and local training workshops, including SRF 101 workshops. NMED CPB will also participate in the Marketing Workgroup spearheaded by CIFA.

EPA Recommendation: *The EPA recommends that the NMED continue to submit projects for the CWSRF George F. Ames PISCES program as a great way to provide more visibility to the program. The EPA recommends that the state submit a minimum of one (1) project during the 2023 awards period.*

NMED CPB will continue to submit projects for the George F. Ames PISCES program. The NMED appreciates the opportunity to highlight New Mexico's communities.

Draft Operating Agreement

In the on-site review portion of the SFY22 Annual Review, NMED informed the EPA review team that they are currently working to update the CWSRF Operating Agreement and State Environment Review Process (SERP) documents to incorporate recent changes to the program.

EPA Recommendation: *A draft of the revised Operating Agreement and SERP should be submitted for EPA review by December 31, 2023.*

The NMED CPB is currently revising the State Environmental Review Process (SERP). When the SERP is complete, it will be attached to the Operating agreement and submitted to EPA for review. We will complete this by December 31, 2023.

Assure that Loan Documents and Program Review Documents Incorporate New Build America, Buy America (BABA) Requirements

The new BABA requirements from the BIL impact all federally funded infrastructure construction (base and BIL) funded by federal assistance agreements after May 14, 2022. It is critical that the NMED's loan documents and programmatic review documents incorporate BABA language in all projects that the NMED will require for 'equivalency' (projects in an amount equal to the capitalization grant). BABA is not a requirement for projects funded through the greater corpus of the Fund.

EPA Recommendation: *The EPA recommends that the NMED review its boilerplate language for loan assistance agreements to assure that 'equivalency' projects understand and incorporate the requirements into contract documents. In addition, the NMED should update its requirements for project-level certification of BABA compliance and update any inspection checklists to incorporate BABA.*

NMED CPB has modified assistance agreement templates to reflect the federal requirements that are pertinent to the project and agreement. NMED CPB worked with Northbridge Environmental to ensure correct language and documents are in place in the agreements and for the contract documents. The review of documents includes project-level BABA certification and inspection checklists.

Maintain List of Recipients Who Qualify for the BABA SRF Planning and Design Waiver

On September 2, 2022, the EPA issued a Decision Memorandum titled, "Adjustment Period Waiver of Section 70914(a) of P.L. 117-58, Build America, Buy America Act, 2021 for SRF Projects that have Initiated Project Planning". This allows for SRF BABA-complaint projects to receive a waiver from BABA if planning and design was initiated prior to May 14, 2022. Any project that qualifies is eligible for this waiver, regardless of funding year (FY22, 23, etc.). At any time, the Office of Management and Budget may request that the EPA transmit this list.

Part of the approved waiver states:

"SRF programs shall maintain a list of all projects qualifying under the conditions of this waiver and provide this list to EPA upon request (no sooner than November 13, 2022, and no more frequently than twice per year), including the following information:

- a. Project name,***
- b. Loan number,***

- c. Description of significant manufactured products or construction materials likely subject to the waiver; and*
- d. Date of initiated and documented design activity qualifying for project waiver.*

EPA Recommendation: *The EPA recommends that the NMED develop this list and track the projects that meet the criteria for the BABA waiver.*

NMED CPB has created a list of all projects that qualify for the BABA planning and design waiver.

Resolve Suspension and Debarment Compliance Issues from Annual Audit

As noted in the financial discussion, the draft audit for the year noted a compliance issue with internal controls over a review of a project's suspension and debarment verification.

EPA Recommendation: *The EPA recommends that the NMED submit their corrective action to the auditor by the date the NMED proposed in their audit report. Please provide a copy of this to the EPA for the program files.*

NMED CPB has provided our auditor with the Standard Operating Procedure that is in place and that addresses the issue of ensuring borrowers follow the Suspension and Debarment requirement.

Ensure Compliance with National Floodplain Risk Management Standard

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. This action re-establishes the Federal Flood Risk Management Standard for federally funded projects.

EPA Recommendation: *The recommends that the NMED ensure that they are complying with the EO for CWSRF equivalency projects.*

NMED CPB will review the Preliminary Engineering Report (PER) for compliance with EO 13690. This item has also been added to the checklist for plan and specification review, and the CPB staff will ensure that the project design will follow EO13690.

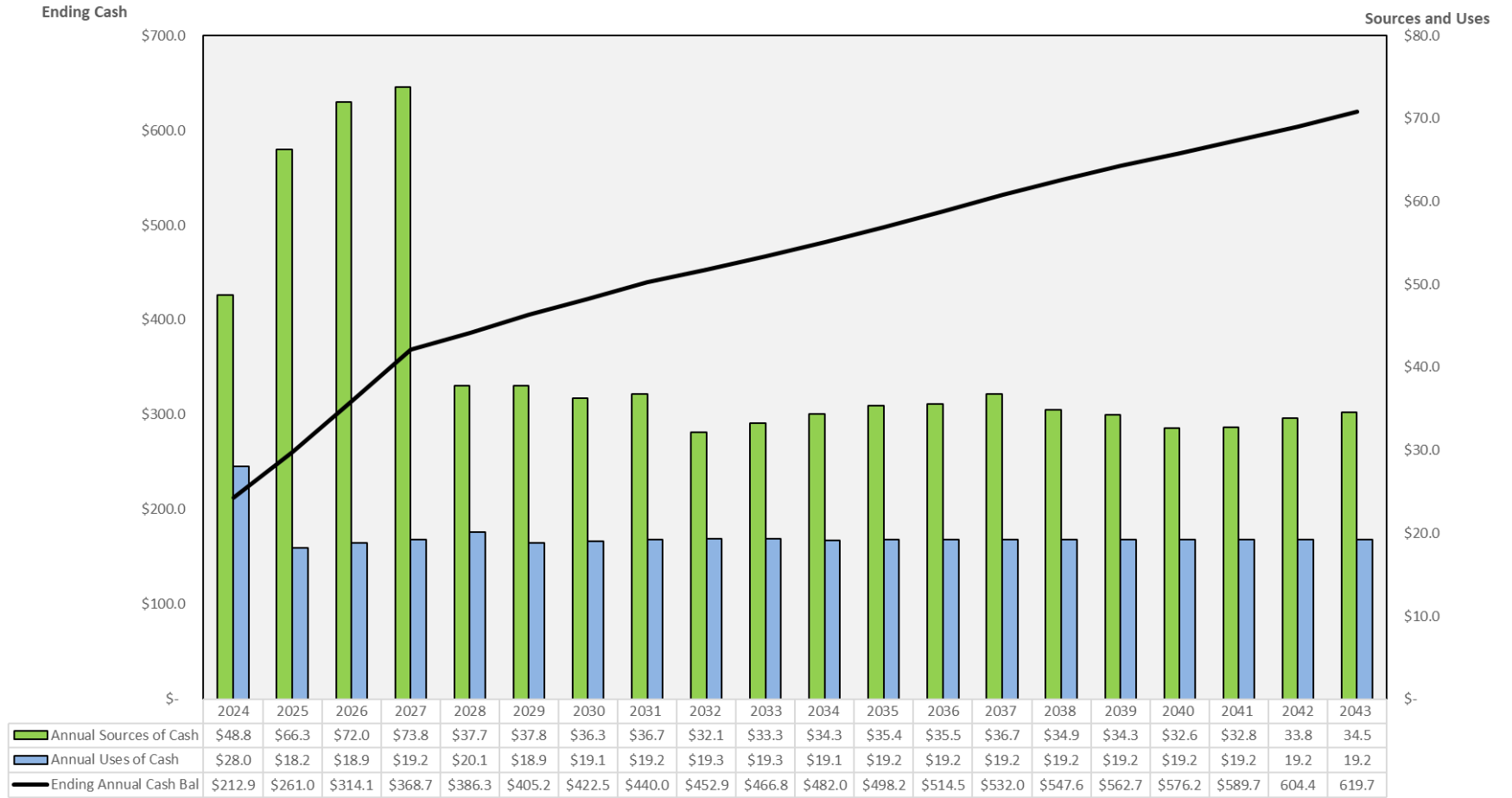
In SFY22, the NMED contracted with Clifton Larson Allen, LLP (CLA) to conduct the CWSRF program audit of the annual financial statements, internal controls, and major federal program compliance. The audit was finalized by the New Mexico Office of the State Auditor on March 14, 2023. The NMED CPB had one finding where a borrower was not sufficiently vetted as not being suspended or debarred. NMED CPB has put into place a new Standard Operating Procedure that requires double verification.

Final Notes: NMED CPB is committed to transparency and accountability. Program information, Intended Use Plans, Annual Reports, and other program materials are posted on the NMED CPB website: <https://www.env.nm.gov/funding-opportunities/> An independent audit is conducted by an independent Certified Public Accounting firm annually. Project milestones and information are reported through EPA's Clean Water Benefits Reporting (CBR) database and the National Information Management System (NIMS).

NMED CPB respectfully submits this Intended Use Plan. If readers are viewing this report from the website, the SFY 2024 PPL is also available from the CPB's website: <https://www.env.nm.gov/funding-opportunities/>

Table 1

New Mexico CWSRF Twenty Year Cash Flow Projection (in \$ millions)



**NEW MEXICO ENVIRONMENT DEPARTMENT
CLEAN WATER STATE REVOLVING FUND
PROJECTS PRIORITY LIST FY2024 Revised 08/30/2023**

Quarter	Points	Applicant	NPDES#	DP#	Project	Project Amount Requested	Funding	Funding Source	Notes	Affordability Criteria Status	Green Project Reserve Amount
Q1	345	Maxwell, Village of	NM0029149	DP 238	Wastewater System Improvements	\$1,200,000	TBD	TBD	Will review after EPA technical assistance is complete	Meets	N/A
Q1	227.5	Socorro, City of	NM0028835	DP 35 (WWTP)	6th Street Stormwater Holding Pond	\$1,000,000	TBD	TBD	Planning is being completed with another funding source.	Meets	TBD
Q1	415	Bayard, City of	NM0020231	DP 1611	Wastewater System Improvements	\$5,000,000	TBD	TBD	Pending audit	Meets	N/A
Q1	520	San Juan County/Flora Vista	NM0020583	DP 427 (Farmington)	Flora Vista Sanitary Sewer Collection System	\$16,000,000	TBD	TBD	Borrower trying to secure additional grant sources	Meets	N/A
Q1	425	Santa Fe, City of	NM0022292	DP289	FY 2024 CIPP Sewer Rehabilitation Project	\$2,100,000	TBD	TBD	Pending audit	TBD	N/A
Q1	280	Hodge's Oil Company	N/A	N/A	Hodge's Old Company Petroleum Storage Tank Replacement	\$500,000	TBD	TBD	Private	Not Eligible	N/A
Q1	230	Ojo Solar	N/A	N/A	Habitat Restoration	\$23,000	TBD	TBD	Private	Not Eligible	N/A
Q1	425	Anthony Water and Sanitation District	NM0029629	DP 450	Anthony Wastewater Treatment Plant Renovation Project	\$16,954,230	TBD	TBD	Borrower trying to secure additional grant sources	Meets	N/A
Q1	400	Gallup, City of-Rehab	NM0020672	N/A	Wastewater Treatment Plant Improvements	\$25,000,000	TBD	TBD	Working on resolution with design issue	Meets	N/A
Q1	255	Gallup, City of-Collection	NM0020672	N/A	Wastewater Lines Replacement	\$27,000,000	TBD	TBD		Meets	N/A
Q1	450	Gallup, City of-NTAU Regional	NM0020672	N/A	New WWTP Facility	\$125,000,000	TBD	TBD		Meets	N/A
Q1	280	Yahtahey Water & Sanitation District	N/A	DP 792	Wastewater Systems Improvements	\$1,000,000	TBD	TBD	Pending planning and design funded by capital outlay	Meets	N/A
Q1	265	Sunland Park, City of	NM0029483	N/A	Manhole cover replacement	\$3,500,000	TBD	TBD		Meets	N/A
Q1	270	Las Vegas, City of (New WWTP)	NM0028827	DP 494	New Wastewater Treatment Plant	\$50,000,000	TBD	TBD		Meets	N/A
Q1	145	Roswell, City of	NM0020311	DP 281	Stormwater System Upgrades	\$44,127,639				Meets	TBD
Q1	135	Roswell, City of	NM0020311	DP 281	Sewer line Rehabilitation and Replacement	\$2,100,000	TBD	TBD		Meets	N/A
Q1	195	Roswell, City of	NM0020311	DP 281	Wastewater Treatment Plant Improvements	\$4,000,000	TBD	TBD		Meets	N/A
Q1	135	Roswell, City of	NM0020311	DP 281	Wastewater Utility Rehabilitation	\$32,075,600	TBD	TBD		Meets	N/A
Q1	410	Glorieta Adventure Camps	NM0028088	DP 168	Glorieta Adventure Camps Wastewater Treatment Plant	\$4,156,000	TBD	TBD	Non-profit, looking for additional grant funding	Not Eligible	N/A
Q1	210	Belen, City of	NM0020150	N/A	City of Belen Wastewater Treatment Plant Improvements	\$13,500,000	TBD	TBD	Will likely phase project. Phase 1 has received capital outlay, meeting scheduled to discuss path forward.	Meets	N/A
Q1	343	Santa Fe County	NM0022292	DP 289	Santa Fe County PFAS	\$5,000,000	TBD	BIL EC		Meets	N/A
Q1	295	Socorro, City of	NM0028835	DP 35 (WWTP)	Belt Press Replacement	\$1,500,000	\$1,500,000	Tier 2	Agreement execution in progress	Meets	N/A
Q1	450	Mountainair, Town of	N/A	DP 1440	Mountainair Wastewater Treatment Plant Improvements	\$4,000,000	TBD	TBD	Pending revised design and congressionally designated spending	Meets	N/A
Q1	230	CRRUA/Sunland Park	NM0031178	DP 565	Sunland Park WWTP Rehabilitation PER	\$250,000	\$250,000	BIL GS 2	Design	Meets	N/A
Q1	350	Cloudcroft, Village of	NM0024848	N/A	WWTP Solids Handling Improvements	\$4,600,000	\$316,000	BIL GS 2	Design	Meets	N/A
*Placement on this Priority List does not constitute either a guarantee of a loan offer or a decision that all of the estimated project costs will be deemed eligible for funding under the Federal Clean Water Act or the New Mexico Wastewater Facility Construction Loan Act.											
Indicates Green Project Reserve											