



## **STATE OF RHODE ISLAND**

### **STATE FISCAL YEAR (SFY) 2023 INTENDED USE PLAN**

*in support of the*

### **FEDERAL FISCAL YEAR (FFY) 2022 BASE, GENERAL SUPPLEMENTAL AND EMERGING CONTAMINANTS CAPITALIZATION GRANTS**

*To be made available by the Federal Clean Water Act  
for the Clean Water State Revolving Fund*

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## **I. INTRODUCTION**

The Rhode Island Infrastructure Bank (Bank) is pleased to submit to the Environmental Protection Agency (EPA) the Intended Use Plan (IUP) for all Clean Water Act (CWA), Title VI funds available to the Rhode Island Clean Water State Revolving Fund (CWSRF). In addition to the Federal Fiscal (FFY) 2022 Base Capitalization Grant allotment of \$7,770,000, the Bank is applying for \$11,950,000 for the CWSRF General Supplemental Grant, and \$628,000 for the Emerging Contaminants Supplemental Grant made available through the Bipartisan Infrastructure Law (BIL).

As required by the CWA, the Bank agrees to provide, through methods available to it, the required 20% State Matching Funds in the amount of \$1,554,000 for the Base Capitalization Grant and the required 10% State Matching Funds for the General Supplemental Grant in the amount of \$1,195,000. There is not a State Match requirement for the Emerging Contaminants Grant. The State Match will be credited to the CWSRF following receipt of Federal funds into the Bank's Automated Standard Application for Payments (ASAP) account.

### **THE RHODE ISLAND CWSRF PROGRAM**

#### **A. Administration**

The entities involved in the application for these Federal Capitalization Grants are the Rhode Island Infrastructure Bank (the Bank) and the Rhode Island Department of Environmental Management (RIDEM).

The Bank is the designated lead entity of the CWSRF Program (the Program) and, among other things, is empowered to enter into capitalization grant agreements with the EPA, to accept capitalization grant awards, and to otherwise manage the CWSRF in accordance with the requirements and objectives of the Act.

RIDEM is responsible for establishing assistance priorities and developing the project priority list (PPL); assisting in the development of the IUP; determining project eligibilities; and performing project technical reviews, construction inspections, review of project disbursements, and project closeouts.

Consistent with the provisions of the CWA and subsequent amendments to it, the Bank reserves the right to cross-collateralize between the CWSRF and Drinking Water SRF (DWSRF). Similarly, the Bank reserves the right to transfer CWSRF funds to the DWSRF as permitted by CWA. While the Bank has not initiated any such transfers in prior years, the Bank may propose to make such a transfer in the near term if the need arises.

With the award of the FFY2022 Federal Capitalization Grants, including the BIL supplemental grants, it is the State's intention to continue a subsidized loan program for assisting water pollution abatement projects and to continue the proper administration

of the CWSRF.

## **B. Planned Program Activities**

RIIB and RIDEM will aim to provide financial assistance to eligible local governmental units, persons, corporations, and sewer authorities for a variety of clean water infrastructure projects.

This IUP outlines the anticipated use of all the funding available in the Program and the methods of financing for making loans.

The strong financial standing of the Program is the result of extensive modeling and analyses that provides the Program with the flexibility to achieve short- and long-term goals within the changing financial, legal, and/or political environment.

## **C. Bipartisan Infrastructure Law (BIL), Required Minimum Additional Subsidies, and State Match**

On November 15, 2021, President Biden signed BIL into law. The BIL provides two new federal grants through the EPA Clean Water State Revolving Fund (CWSRF) program over the next five years:

1. General Supplemental Grant
2. Emerging Contaminants Grant

For FFY2022, the Bank expects to receive \$11,950,000 for the CWSRF General Supplemental Grant and \$628,000 for the Emerging Contaminants Grant. BIL provides that a specific amount of each capitalization grant be provided as principal forgiveness and/or grants to subrecipients, which is called ‘additional subsidy’. The BIL mandates that exactly 49% of funds provided through the CWSRF General Supplemental Grant (\$5,855,000) must be provided as additional subsidy, with a priority on reaching disadvantaged communities. The subsidy is expected to be provided in the form of principal forgiveness and/or grants. BIL also mandates that 100% of the funds provided through the Emerging Contaminants Grant (\$628,000) must be provided as a subsidy. In addition, BIL provides that a minimum of 10%, but not more than 30% of the Base grant allocation be issued to as ‘additional subsidy’ to entities and/or projects meeting certain criteria. The RI CWSRF intends to comply with these additional subsidy requirements, as demonstrated in section IV.

Table 1, shown below, are the FFY2022 allocations and subsidy requirements:

**Table 1**

<b>Appropriations from BIL</b>	<b>2022 Allocations</b>		<b>Subsidy Requirements</b>	
CWSRF -General Supplemental	\$	11,950,000	\$	5,855,500
CWSRF - Emerging Contaminants	\$	628,000	\$	628,000

For the required State Match, Under CWSRF General Supplemental provision, the State Match requirement is reduced to 10% of the total amount of the capitalization grant in fiscal years 2022 and 2023. The match requirement returns to 20% of the capitalization grants in fiscal year 2024. Under the Emerging Contaminant provision, the requirement to provide the state match has been waived.

## **II. SHORT-TERM AND LONG-TERM GOALS**

As required by the CWA, the Program has identified the following goals for the CWSRF. The goals described below are grouped according to short-term and long-term objectives and are not listed in any order:

### **A. Short-term Goals**

**Goal #1:** Effectively manage the Program and maintain timely distribution of Program funds.

**Goal #2:** Continue to encourage new project eligibilities and for traditional wastewater projects to include green and resilient components.

**Goal #3:** Administer rules, regulations, loan policies and procedures, and continue to manage guidelines that are conducive to the proper functioning of the Program while ensuring compliance with the CWA.

**Goal #4:** Develop a comprehensive need based IUP, to be submitted along with the annual capitalization grant application and prepare an annual report which lists the State's accomplishments for the fiscal year and submit to the EPA in a timely manner.

**Goal #5:** Oversee BABA and BIL implementation requirements across SRF projects, as applicable, and provide detailed info on BABA and BIL compliance requirements, flexibilities and processes to borrowers.

### **B. Long-term Goals**

**Goal #1:** Protect the public health and the environment and promote completion of cost-effective projects.

**Goal #2:** Assure full compliance with Title VI of the Clean Water Act and all federal crosscutting requirements as per the 1987 CWA amendments.

**Goal #3:** Continue to manage the Program such that it will operate in perpetuity.

**Goal #4:** Place emphasis on projects focused on attaining compliance with Rhode Island Pollutant Discharge Elimination System (RIPDES) permit limitations and reinforce the importance of attaining general water quality standards where they are negatively

impacted by municipal point-source discharges and/or sources of nonpoint source pollution.

**Goal #5:** Continue to evaluate environmental needs throughout the State, by rating specific projects for water quality improvement and/or protection and strive to distribute Program funds in a priority manner.

**Goal #6:** Continue to assist prospective borrowers during all phases of project development, including the financing process.

**Goal #7:** Continue efforts to improve the water quality of the Narragansett Bay and its tributaries, which is designated as an Estuary of National Significance, and the Wood-Pawcatuck Watershed which is a nationally designated Wild and Scenic River.

**Goal #8:** Coordinate with related partners on the support of borrowers for stormwater, non-point source, climate resiliency and other weather-related projects.

**Goal #9:** Provide financial assistance in the form of loans or other acceptable arrangement with principal forgiveness to mitigate contamination due to emerging contaminants.

**Goal #10:** Support BABA by ensuring that all products used in infrastructure projects as identified in the Act be produced in the US and assurance that required procurement language is used in contracts.

**Goal #11:** Fully enforce Civil Rights by promoting public engagement and program transparency.

**Goal #12:** Identify and prioritize additional subsidy for projects in the IUP that serve disadvantaged communities.

### **C. Information on the CWSRF Activities to be supported**

The FFY2022 Capitalization Grant funds will provide financial assistance to municipalities, sewer authorities, and other eligible entities using direct loans, Bank Loans, or Federal Direct Loans for eligible CWSRF projects addressing wastewater system and stormwater management needs including green infrastructure . The maximum permissible principal repayment period shall be up to 30 years following project completion and may begin up to 12 months after construction is completed but will not exceed 5 years from the beginning of construction.

The Program has Federal Direct Loan re-payments, and State Match direct loan repayments available to lend. These amounts will be used to fund “direct loans” (i.e., not leveraged) or for revenue bond pool issues during this IUP period as loan demand and timing dictates.

The Bank, in cooperation with RIDEM and Rhode Island Housing (RI Housing), continues to manage its Community Septic System Loan Program (CSSLP). RI Housing is the homeowner loan administrator on behalf of the community. The CSSLP allows communities without wastewater treatment facilities to access CWSRF funds. Communities can access the CSSLP after completing an On-Site Wastewater Management Plan (OWMP) approved by RIDEM.

Once the plan appears on RIDEM's PPL and the Certificate of Approval (CA) is obtained, the community will apply for a loan from the Bank to repair or replace failing sub-standard septic systems. Once the loan is negotiated, the community may then allow residents to access the funds. The borrowing cost for the homeowner is 1% per annum of the outstanding loan balance and a \$300 loan origination fee for a term up to ten years. The Bank uses revolved funds to capitalize the CSSLP. Both RIDEM and the Bank view the CSSLP as a means of achieving the goals and objectives of the approved Section 319 Non-Point Source Management Plan.

In FY2022, the Bank made 1 CSSLP loan. As of April 30, 2022, the Bank has made sixty-one CSSLP loans to seventeen communities in the total amount of \$22,100,000. To date, the Bank has originated 1,011 end loans to property owners.

RIDEM and the Bank created a new funding mechanism last year to provide grants/loans to municipal and quasi-state entities for the protection of wastewater collection and treatment infrastructure from natural hazards (floods, sea-level rise, etc.) related to climate change. The Wastewater Treatment Facility Resilience Fund (WWTFRF) has been funded with approximately \$5 million in grant funds from a state bond referendum. Projects costing less than \$500,000 would receive a 50% matching grant up to \$250,000. The grantee is free to use any source, including a loan from the Bank, to finance its match. For projects estimated to cost over \$500,000 a 50% matching grant is made up to \$1.25 million and the grantee must finance its match through the CWSRF program. In FY2022, the Bank financed two WWTFRF loans: Quonset Development Corporation for \$450,000 and Town of Smithfield for \$475,000. The Bank is presently working RIDEM to identify additional candidates for this funding.

#### **D. RIDEM Administrative Costs**

Based upon the FFY2022 allotment of funds, RIDEM plans to use \$310,800 (4%) of the Base Capitalization Grant, as provided by the CWA Title VI, and \$503,120 provided for by BIL (calculated as 4% for the supplemental and 4% for the Emerging Contaminants as for administrative support in managing and operating the Program. The Bank, from FFY1998 through FFY2005 had "banked" the authority to use the 4% of the Base federal capitalization funds for RIDEM administrative costs to support the Program. The Bank also banked the FFY2009 American Recovery and Reinvestment Act Capitalization Grant's 4% administrative monies. To date, \$3,849,156 in Capitalization Funds for RIDEM's

administrative costs have been banked. These funds have been loaned to various communities. As of April 30, 2022, the Bank has “unbanked” \$2,391,856 utilizing its deallocated funds to pay for RIDEM administrative costs leaving a balance of \$1,457,300 of banked Base RIDEM administrative funds (see Table 1.A, attached).

#### **E. Technical Assistance**

Through BIL, the State is allowed to use up to an amount equal to 2% of each of the annual CWSRF Base program, CWSRF General Supplemental fund, and the Emerging Contaminants fund for the purpose of hiring staff, nonprofit organizations, or regional, interstate or municipal entities to provide Technical Assistance (TA) to rural, small, and tribal publicly owned treatment works. A majority of the state is serviced by wastewater systems that do not qualify for technical assistance under the BIL provision. As provided for in the BIL, if the State does not utilize the full amount of the technical assistance funds allowed, it may reserve the right to utilize the unused portion(s) at a later date. For FFY2022, RI hereby exercises this right to reserve all TA funds. During FY2022, RIDEM will be conferring with the limited number of eligible wastewater systems on how to best meet their technical assistance needs.

#### **F. Emerging Contaminants**

For FFY2022, BIL mandates that 100% of the funds provided through the Emerging Contaminants fund must be provided as principal forgives and or/grants. This requires that the Bank provide the entire \$628,000 as principal forgiveness and/or grants. The BIL provision states that the requirement to provide state match will be waived. For FY2023, Rhode Island is proposing to carry out a planning and assessment project focused on PFAS compounds as a priority emerging contaminant issue in Rhode Island associated with both point and non-point source of pollution. As discussed in the 2019 Rhode Island Nonpoint Source Management Plan, PFAS constitutes a large class of emerging contaminants that have been of growing management concern. In response, RIDEM and RIDOH have been actively collaborating to evaluate and address PFAS concerns in drinking water sources, wastewater systems and certain known sites of contamination. Recent work by other New England states, including Massachusetts, reinforces the need for further work in RI to characterize conditions and to identify and plan for projects that are needed to address PFAS public health and environmental concerns. Wastewater operations are adversely impacted by PFAS contamination from residential, industrial, and commercial sources. PFAS can be found in every step of the wastewater treatment process including the generation of biosolids. Through the proposed project, RIDEM will establish baseline conditions in RI waters relative to PFAS discharged from wastewater treatment facilities and other targeted facilities and use the information to identify future needed projects. RIDEM proposes to carry -out the project in collaboration with the Narragansett Bay Commission and other WWTF. The project would include activities to:

- 1) Monitor and assess PFAS contamination in WWTF receiving waters including rivers and coastal waters;
- 2) Monitor and assess the fate of PFAS through RI WWTF processes, including generation of biosolids;
- 3) Assess impacts to waters at other types of facilities targeted as NPS contamination risks (i.e., fire stations, other types of facilities identified by EPA as potential sources, etc.).
- 4) Identify actions needed at facilities to control/mitigate PFAS including those that may be incorporated into WWTF facility plans;
- 5) Identify actions needed to address NPS release of PFAS;
- 6) Provide data analysis to support standard setting consistent with the 2019 NPS Management Plan;

Through the project, RIDEM will collaborate with RIDOH and Narragansett Bay Commission to also explore and develop strategies for increasing in-state capacity for the laboratory analysis of PFAS including the acquisition of equipment as appropriate. Information garnered from the project will support prioritization of needed actions at WWTFs and other facilities in RI. In addition, the improved understanding of PFAS contamination in RI will be helpful and contribute to discussions about potential regional solutions to PFAS management concerns that are on-going.

It is the State's intention to reserve 2% of this appropriation, which amounts to \$12,560, to provide technical assistance to small, rural, and tribal publicly owned treatment works at a future date.

#### **G. Projects To Be Funded with FFY 2022 State Revolving Funds**

With the total FFY2022 Federal and State allotment, it is the State's plan to continue a subsidized CWSRF loan program. To determine which projects are to be funded by the Program, the RIDEM prepared the State FY2023 PPL, which was then reviewed in relation to requests received by the Bank through March 25, 2022. The following potential borrowers have submitted applications for Base funding in FY2023 Narragansett Bay Commission (which serves all, or portions of, Central Falls, Cranston, Cumberland, East Providence, Johnston, Lincoln, North Providence, Pawtucket, Providence, and Smithfield); Town of Middletown; and Town of Tiverton. Note: All borrowers are subject to change.



### III. FINANCIAL PLAN AND STRUCTURE FOR THE CWSRF

#### A. Source of State Match

The required state match for the Base Capitalization Grant of \$7,770,000 is 20%, which equals \$1,554,000. The Bank is also expecting to receive an additional \$11,950,00 for the CWSRF Supplemental Grant, which has a state match requirement of 10% (\$1,195,000). The required FFY2022 state match for both the Base and BIL capitalization grants have been received from the 2023 State Supplemental Budget and have been deposited into CWSRF program on May 03, 2022.

#### B. Sources and Uses of Funds Potential

The estimated funds available for projects in this IUP are summarized in Table 2, below. Additional information can be found in Table 2.A, attached. The estimate includes awarded, but unused (undedicated) EPA and State Capitalization Grants still available; direct loan repayments; deallocated reserve funds; estimated debt proceeds; and interest earnings on investments of Program resources.

**Table 2**

<b>Resources Available</b>	<b>Amount</b>
State Match Repayments	\$7,864,213
Revenue Fund Release	\$24,991,482
Base FFY2022 Cap Grant (minus RIDEM Admin)	\$7,459,200
Base State Match	\$1,554,000
BIL General Supplemental (minus RIDEM Admin)	\$11,472,000
BIL State Match	\$1,195,000
BIL Emerging Contaminants (minus RIDEM Admin)	\$602,880
Bond Proceeds	\$45,000,000
Transfer from DWSRF*	\$0
Transfer to DWSRF*	\$0
<b>Total</b>	<b>\$88,666,775</b>

\*Not anticipated at this time but may be proposed.

The total amount of loans to be issued from the CWSRF is anticipated to be approximately \$70 million. The sources (bond proceeds) are in anticipation of applications being submitted. The resources available in the CWSRF are anticipated to be enough to finance all eligible projects ready for financing during this IUP period. The Bank will fund projects according to the PPL developed by RIDEM and readiness to proceed.

#### C. Program Income from Administrative Fees

The Bank charges a 1.0% Loan Origination Fee on all loans. These fees help offset

origination-related expenses. The Bank also charges a 0.30% service fee (per annum) on outstanding loan balances; this fee is used to pay the Bank’s operating expenses.

As dictated by EPA, The State agrees to: 1) maintain records which account for fees separate from the CWSRF project fund, 2) identify in the IUP all types of fees charged on loans, including the fee rate, and the amount of fees available, and 3) include in the annual report the types of fees charged on loans, the amount of fees collected, and how those amounts were used.

**D. Schedule of Anticipated Payments into the ACH system**

The Program anticipates deposits into the ASAP for the FFY2022 capitalization grant as per the following schedule. At this time, it is also expected that the Bank will draw cash from ASAP as per the same schedule:

**FFY2022 Base Capitalization Grant**

**Table 3**

<b>Federal Fiscal Year Quarter</b>	<b>Dates</b>	<b>Grant Award Amount</b>	<b>Grant Payment Amount (ACH)</b>	<b>Binding Commitment</b>
FFY-2022-4	July 1, 2022 – Sept 30, 2022	\$7,770,000		
FFY-2023-1	Oct 1, 2022 – Dec 31, 2022		\$3,885,000	
FFY-2023-2	Jan 1, 2023 – March 31, 2023		\$3,885,000	
FFY-2023-3	Apr 1, 2023 – June 30, 2023			

**FFY2022 Supplemental Capitalization Grant**

**Table 4**

<b>Federal Fiscal Year Quarter</b>	<b>Dates</b>	<b>Grant Award Amount</b>	<b>Grant Payment Amount (ACH)</b>	<b>Binding Commitment</b>
FFY-2022-4	July 1, 2022 – Sept 30, 2022	\$11,950,000		
FFY-2023-1	Oct 1, 2022 – Dec 31, 2022		\$7,000,000	
FFY-2023-2	Jan 1, 2023 – March 31, 2023		\$4,950,000	

FFY-2023-3	Apr 1, 2023 – June 30, 2023			
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**FFY2022 Emerging Contaminants Capitalization Grant**

**Table 5**

<b>Federal Fiscal Year Quarter</b>	<b>Dates</b>	<b>Grant Award Amount</b>	<b>Grant Payment Amount (ACH)</b>	<b>Binding Commitment</b>
FFY-2022-4	July 1, 2022 – Sept 30, 2022	\$628,000		
FFY-2023-1	Oct 1, 2022 – Dec 31, 2022			
FFY-2023-2	Jan 1, 2023 – March 31, 2023			
FFY-2023-3	Apr 1, 2023 – June 30, 2023			
FFY-2023-4	July 1, 2023 – Sept 30, 2023			
FFY-2024-1	Oct 1, 2023 – Dec 31, 2023			
FFY-2024-2	Jan 1, 2024 – March 31, 2024			
FFY-2024-3	Apr 1, 2024 – June 30, 2024		\$628,000	

**E. Federal Cash Draw Proportionality Ratio**

The Bank will use the 100% State Match equivalent disbursement method (i.e., disburse 100% of the State Match before any of Federal funds are disbursed to meet the proportionality requirement).

**F. Transfer Authority between Clean Water and Drinking Water SRF's**

In accordance with the Safe Drinking Water Act (SDWA) and the SRF funds transfer provisions (Section 302), the State hereby reserves the authority to transfer an amount up to 33 percent of the DWSRF program capitalization grant(s) to the CWSRF program, or an equivalent amount from the CWSRF program to the DWSRF program. In addition, the Bank may transfer funds between CWSRF and DWSRF General Supplemental grants, and between the CWSRF and DWSRF BIL Emerging Contaminants capitalization grant. No transfer of funds is planned at this time; however, the Bank reserves the right to transfer

funds in the future.

### **G. Cross-Collateralization of the CWSRF and DWSRF Revenue Bond Structure**

The Master Trust Agreement dated May 1, 2021, provide for a bond structure that allows for cross-collateralization of the CWSRF and the DWSRF in order to provide additional bond security and ratings enhancement for both programs. With cross-collateralization, excess CWSRF revenues (revenues pledged to repayment of CWSRF bonds over and above what is needed to make actual debt service payments) would be available to cure any DWSRF bond payment default or reserve fund deficiency. Likewise, excess DWSRF revenues would be available to cure any CWSRF bond payment default or reserve fund deficiency. Pursuant to federal regulations, cross-collateralization support cannot extend to debt specifically issued for the purpose of providing state matching funds. The Master Trust Documents provide adequate safeguards to ensure that future CWSRF or DWSRF bond issues will comply with this limitation. Revenues pledged to the repayment of CWSRF bonds include: principal and interest payments received on loans and investment earnings on funds and accounts within the bond indenture, including a reserve fund comprised of CWSRF program assets (cash). The Master Trust Documents and each series bond indenture require that revenues be pledged sufficient to cover the debt service requirement for each payment date at least 1.1 times. Accordingly, a cash flow surplus is anticipated for each period absent a borrower default on a loan. This surplus flows to the other series of the CWSRF and DWSRF bonds. Under the new Master Trust Indenture, all CWSRF loans are pledged to all CWSRF outstanding bonds, and all DWSRF loans are pledged to all DWSRF outstanding bonds

- The order of priority for surplus CWSRF pledged revenues is: CWSRF bond issue debt service payment deficiencies;
- Any DWSRF bond issue debt service payment deficiencies (but not DWSRF state match bonds);
- CWSRF bond issue reserve fund deficiencies;
- Any DWSRF bond issue reserve fund deficiencies (but not DWSRF unrestricted reserve funds that secure DWSRF state match bonds);
- To replenish and repay the DWSRF for any surplus DWSRF pledged revenues that were previously utilized to cure a CWSRF bond issue debt service or reserve fund deficiency;
- All remaining funds are released back to the CWSRF Loan Account.

The order of priority for surplus DWSRF pledged revenues is similarly structured, as such any surplus CWSRF pledged revenues that are utilized to cure a DWSRF bond issue debt service or reserve fund deficiency will ultimately be repaid to the CWSRF through operation of the Master Trust Documents.

## **H. Projected Funding List**

With the awards of the FFY2022 Base Capitalization Grant, the General Supplemental Grant, and including the requisite State Match amounts, grand totaling \$22,469,000, (Base is \$7,770,000 plus the State Match of \$1,554,000, (totaling \$9,324,000); (General Supplemental Grant is \$11,950,000, plus the State Match of \$1,195,000, totaling \$13,145,000) the Bank expects to fund all, or portions of the projects identified in Table 2.A, attached. The Bank has received applications from the Narragansett Bay Commission for \$100,000,000; the Town of Middletown for \$2,032,020; and the Town of Tiverton for \$12,500,000.

## **IV. ADDITIONAL SUBSIDIZATION**

The Bank, to the extent that it can, plans on providing up to \$1,554,000 (20% of Capitalization Grant) in additional subsidy from the FFY2022 Base Capitalization Grant to eligible borrowers. Subsidization will be provided in the form of either principal forgiveness or grants. As amended by BIL, the CWA mandates that the Bank use at least 10% (\$770,000) and no more than 30% of the Base Capitalization Grant as additional subsidization to the following:

- Any municipality that meets the state's affordability criteria as established under the CWA section 603(i)(2);
- Municipalities that do not meet the state's affordability criteria but that seek additional subsidization to directly benefit individual ratepayers in the residential user rate class that will otherwise experience significant hardship from increased rates due to the project; or
- to any eligible recipient for a project that implements a process, material, technique, or technology that addresses water or energy efficiency goals ; mitigates stormwater runoff; or encourages sustainable project planning, and construction. (Note: These types of projects also qualify for the Green Project Reserve requirement to have 10% of CWSRF capitalization grant funds utilized for projects for water/energy efficiency, green infrastructure, or environmentally innovative projects.)

In addition, BIL mandates that exactly 49% of funds provided through the CWSRF General Supplemental Capitalization Grant (\$5,855,500) must be provided as principal forgiveness and/or grants to those statutory eligibilities listed above, with a priority on reaching Disadvantaged Communities. For the Clean Water SRF program, disadvantaged communities are defined as those communities meeting the affordability criteria of the State, which is discussed in detail in Section B., below.

### **A. Green Project Reserve (GPR)**

Through the FFY2022 Base Appropriations, which includes the Supplemental BIL Grants, The Further Consolidated Appropriations Act of 2020 has set a goal, subject to eligible projects, that not less than 10% of each Base capitalization grant and BIL Supplemental

grant be used to fund the GPR, which categories are: green infrastructure, water efficiency, energy efficiency, and other environmentally innovative projects. A good faith solicitation must be open to all GPR eligible projects in each of the four GPR categories. RIDEM's PPL and the Bank's annual open solicitation for projects will be deemed enough for these purposes because the solicitation was open to all GPR eligible projects. The State agrees to include in its IUP such qualified projects, or components of projects, that total an amount at least equal to 20% (\$1,540,000) of its Base Capitalization Grant and 10% (\$1,195,000) of its Supplemental BIL Grant. Though this 10% goal is independent of the additional subsidization requirements, the RI CWSRF has historically made this goal synonymous with its base additional subsidization requirement and provided principal forgiveness to this statutory eligible category to encourage such projects to apply for financing through the CWSRF. The Program intends to provide 20% of the FFY 2022 Base CWSRF Capitalization Grant, as noted above, in additional subsidy for GPR projects. Clean water projects expected to close loans in FY2023 with GPR-based principal forgiveness include:

- Narragansett Bay Commission – CSO Phase III A Facilities – GSI Projects
- City of Pawtucket – Slater Park Green Infrastructure Improvements

Projects for GPR additional subsidization were identified in order of their rank on DEM's Project Priority List with higher ranked projects being eligible for funding first. Projects must be ready-to-proceed, have GPR eligible components, and have submitted a financial application to RI Infrastructure Bank by the priority date of June 10, 2022.

## **B. Affordability Criteria**

The Bank has revised the Affordability Criteria in this IUP for the distribution of additional subsidy in order to fulfill the intents and goals of the BIL to reach Disadvantaged Communities. The revised affordability criteria is as follows:

### **Affordability Criteria for Disadvantaged Communities**

To assess affordability needs in the CWSRF, Rhode Island has established an Affordability Criteria for Rhode Island's municipalities and wastewater and drinking water utilities. After applying the Criteria, entities with an Affordability Index less than the statewide average may qualify for additional subsidization such as principal forgiveness. Indexed entities are grouped into tiers, with tiers further below the statewide average qualifying for increased levels of subsidization.

Once each year, prior to the release of that year's IUP, the Affordability Index and tiers can be updated to incorporate current data and thresholds adjusted based on funds available and expected loan volume.

The Affordability Index is calculated using the statutorily required variables in the following formula:

$$\text{Affordability Index} = \text{Median Household Income} * \text{Employment Rate} * \text{Population Ratio}$$

- **Median Household Income**<sup>1</sup> is a widely accepted metric of resident's ability to afford the cost of infrastructure projects. A community with higher median household income suggests higher ability to afford the cost of infrastructure.
- **Employment Rate**<sup>2</sup> represents the resident employment size divided by the size of the total labor force in the community. Higher employment rates suggest that a community has more residents able to afford the cost of infrastructure than a community with lower rates.
- **Population Ratio**<sup>3</sup> is the ratio of the current US Census Bureau population to the previous Census population expressed as a percentage. A percentage greater than 100% indicates communities with a growing population, and a percentage less than 100% indicates a shrinking population. A growing population indicates an increasing ratepayer base to absorb infrastructure costs. As a state, Rhode Island's population slightly increased from 2000 to 2010.

Large wastewater and drinking water systems serving over 10,000 users shall be tiered based on the tier of the community they serve. Large systems serving multiple communities shall be tiered based on an index set to be a weighted average of each community served. Weighting shall be based on population served or flow data and come from publicly available sources or data provided by the system.

Small wastewater and drinking water systems serving 10,000 users or less shall be tiered based on median household income from either an income survey or census tract data. If a system serves multiple census tracts, the census tract with the lowest income is used. Eligible systems with an Affordability Index 70% or less of the statewide average shall be designated a tier 1 entity; systems with an Affordability Index between 71% and 85% shall be designated a tier 2 entity; systems with an Affordability Index between 86% and 100% of the statewide average shall be designated a tier 3 entity. Domestic limited liability companies and domestic profit corporations, excepting cooperatives, are not eligible for a tier. Additionally, to qualify for drinking water tiering, entities must be a community Public Water System or a school.

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<sup>1</sup> Median Household Income data is from the Rhode Island Department of Labor and Training (RI DLT) site <https://dlt.ri.gov/labor-market-information/data-center/census-data> accessed February 2022. RI DLT does not collect median household income. Data source: Census Bureau, 2015-2019 American Tables S1901 & B19301 Per Capita Personal Income in the Past 12 Months (2019 Inflation-Adjusted Dollars).

<sup>2</sup> Employment data is from the RI DLT site <https://dlt.ri.gov/labor-market-information/data-center/unemployment-ratelabor-force-statistics-laus> accessed February 2022. Data source: RI DLT, Labor Market Information, updated 3/2021.

<sup>3</sup> Population Change data is from RI DLT site <https://dlt.ri.gov/labor-market-information/data-center/census-data> accessed February 2022. RI does not collect population change data. Source: US Census Bureau, 2010 Census and 2000 Census.

The Affordability Index results are shown in Appendix 1. All 39 RI municipalities have been indexed, along with selected drinking water and wastewater entities. Additional drinking water and wastewater entities can be indexed on an as-needed basis.

The table below describes the FY23 Tiers with eligible communities listed. Entities not listed are either not eligible or have not been indexed.

**Table 6: Tiers with eligible communities (% = Community Index as Percentage of State Index)**

<b>Tier 1</b> Affordability Index <b>70% or less</b>	<b>Tier 2</b> Affordability Index between <b>71% - 85%</b>	<b>Tier 3</b> Affordability Index between <b>86% - 100%</b>
City of Central Falls – 49% City of Woonsocket – 59% Woonsocket WWTF – 67% City of Providence – 68% Small systems: Tiverton Wastewater District	City of Pawtucket – 71% Narragansett Bay Commission – 75% Town of West Warwick – 81% Town of North Providence – 83% Town of Warren – 83% West Warwick WWTF – 84% City of East Providence – 84%	New Shoreham - 88% Newport – 94% Newport WWTF – 95% Johnston – 98%  Note: Funding only available in this tier if no ready-to-proceed projects remain in Tier 1 and Tier 2

Clean water projects expected to close in FY23 with affordability-based principal forgiveness include:

- City of Providence
- Tiverton Wastewater District
- City of Woonsocket
- City of Pawtucket
- City of East Providence
- Narragansett Bay Commission

**Allocating Principal Forgiveness**

Projects closing loans in FY23 shall be allocated principal forgiveness according to the following table.

**Table 7: FY23 Tiers with thresholds and principal forgiveness**

<b>Tier</b>	<b>Index Threshold</b>	<b>CW SRF Principal Forgiveness</b>
<b>Tier 1</b>	<b>0-70%</b> of state average	40% of project cost if application received by priority date and loan closed prior to December 31, 2022



<b>Tier 2</b>	<b>71-85%</b> of state average	15% of project cost if application received by priority date and loan closed prior to December 31, 2022
<b>Tier 3</b>	<b>86-100%</b> of state average	Funding available in this tier if no ready-to-proceed projects remain in Tier 1 and Tier 2
<b>All projects</b>		Forgiveness available for Green Project Reserve project in the order of PPL ranking. 25% of GPR project cost if application received by priority date and loan closed prior to December 31, 2022.

Principal forgiveness amounts are contingent upon funding availability and readiness to proceed. The Bank strives to accommodate all borrowers and, for financial applications not received by the priority date of June 10, 2022, or not ready-to-proceed, shall allocate principal forgiveness in the order in which ready-to-proceed financial applications are received. Affordability-based principal forgiveness is additive to GPR-based principal forgiveness.

### **C. Criteria and Methods for Distribution of CWSRF Funds**

RIDEM has an integrated priority ranking system, approved by EPA Region I. A PPL is developed annually using this ranking system (Attachment A).

The CWSRF will provide loans for up to 100% of eligible project and finance costs, consistent with Federal limitations on the use of CWSRF funds, with the State determining the eligibility based on state-developed criteria.

The Bank and RIDEM take several factors into consideration when determining which projects from the PPL will be funded by the CWSRF. These factors include:

- Relative ranking on the PPL;
- Indication that the eligible potential borrower has the authority to encumber debt for water pollution abatement projects from the Bank;
- Indication that eligible potential borrower will make an application to the CWSRF for financing;
- Indication that the eligible potential borrower’s credit quality is adequate;
- Indication that RIDEM will approve the project in the form of a Certificate of Approval; and
- Indication that the project is ready to proceed within six months of closing the

loan.

#### **D. By-Pass procedure and revisions to the Intended Use Plan**

Throughout the course of the year the need may arise to amend this IUP. In such an event, the Program will only propose projects that have been selected from the approved PPL. The projects on this list will have been previously identified and approved through the public participation process as per 40 C.F.R. Section 35.3150 (c).

In the event that projects identified for funding in this IUP are unable to proceed, funding assistance for these projects will be deferred and other projects from the PPL will be selected for funding based on procedures in the priority determination system, readiness to proceed, and availability of funds. Such change in ultimately funded projects shall not require an amendment to this Intended Use Plan.

#### **E. ASSURANCES AND SPECIFIC PROPOSALS**

The Bank provides the necessary assurances and certifications as part of the Operating Agreement (OA) between the Bank and EPA. Rhode Island's OA includes requirements of the following sections of the law:

##### 602 (a): Environmental Reviews

RDEM has formulated the State Environmental Review Process (SERP) which has been approved by EPA. For FFY2022 funds, we expect that most projects will require a Finding of No Significant Impact (FONSI) or a Categorical Exclusion. Non-treatment works projects do not require environmental review under the SERP.

##### 602 (b)(3): Binding Commitments

The Bank certifies that it will enter into binding commitments for 120% of each quarterly payment received under the Capitalization Grant(s) within one (1) year of receipt of that payment into the EPA/ACH payment system.

##### 602 (b)(4): Expeditious and Timely Expenditures

The Bank will expend all funds in the CWSRF in a timely and expeditious manner. Disbursements for approved CWSRF projects are dependent upon the accuracy of construction schedules and consistency with planning. The Bank agrees that it will not provide assistance to any project unless that project is consistent with plans developed under Section 205(j), 208, 303(e), 319 or 320.

#### **VI. REPORTING REQUIREMENTS**

The Bank and RIDEM are committed to ensuring that all reports and electronic data are submitted by their deadlines.

- **Federal Funding Accountability & Transparency Act (FFATA)** – The Bank is committed

to transparency and accountability under FFATA (reporting requirements may be obtained at their website <https://fsrs.gov/>). The Bank program information, IUP's, Annual Reports, Audited Financials and other program materials will be posted on the Bank's website: [www.riib.org](http://www.riib.org).

- **SRF Data System (updated and consolidated multiple reporting databases, including the former Clean Water Benefits Reporting (CBR) and National Information Management System (NIMS))** – Project milestones and other pertinent information is reported through EPA's SRF Data System. The Bank and RIDEM are committed to entering data into the EPA SRF Data System to evaluate the benefits of the RI CWSRF Program. The Bank and RIDEM will continue its quarterly reporting in the SRF Data System.
- **Utilization of Small, Minority and Women's Business Enterprise (DBE)** – The Bank and RIDEM agree to comply with the requirements of EPA's program for DBE in procurement under assistance agreements contained in 40 CFR, Part 33.
- **Single Audit Act** – The Bank in accordance with OMP Circular A-133, which implements the single audit act, hereby agrees to obtain a single audit from an independent auditor if it expends \$750,000 in total Federal funds in any fiscal year. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the Bank shall submit a copy of the SF-SAC and a Single Audit Report Package to the Federal Audit Clearing House. The Bank will require the same of its borrowers should they expend \$750,000 in total federal funds in any fiscal year.
- **EPA Annual Report** – The Bank agrees to provide an Annual Report to EPA by September 30 the first fiscal year after it receives payments under title VI. The Bank will submit this report to EPA according to the schedule established in the grant agreement.
- **EPA Sustainability Policy Implementation** - The Bank and RIDEM continue to support the implementation of EPA's Infrastructure Sustainability Policy by funding only wastewater treatment projects that are consistent with local wastewater facilities plans, prioritize projects through an integrated priority determination system that places emphasis on public health and water quality protection projects and awards extra points for "smart growth" projects and projects that incorporate GPR elements, and tie Additional Subsidization to GPR projects. While recently most of the projects currently funded are mandated through compliance orders or consent agreements, both the Bank and RIDEM recognize that has not been the case in the past nor will it be in the future. The Program will therefore continue to investigate means by which other sustainability measures (e.g., effective utility management, asset management, and integrated water resource management) can be further incorporated into funding decisions to build a "pipeline" of sustainable projects eligible to receive CWSRF funding.

- **Additional Requirements** - To comply with federal reporting requirements such as DBE reporting and Davis-Bacon for the FFY2022 Capitalization Grant, the Bank will apply these requirements to all of its treatment works projects, as well as for all other requirements such as the Single Audit Act and federal environmental crosscutters. At time of loan closing, the Bank will designate a borrower for FFATA reporting.

#### **A. Davis-Bacon Wage Rates**

Section 602(b)(6) of the CWA permanently applies the prevailing wage (Davis-Bacon) provision of FWPCA Section 513 to any projects for treatment works that are funded by the CWSRF. Consistent with EPA's prior implementation of this provision, application of the Davis-Bacon Act requirements extends not only to assistance agreements funded with capitalization grants, but to all CWSRF-funded projects involving the construction of treatment works regardless of the source of the funding (e.g., prior years' appropriations, state match, bond proceeds, interest earnings, principal repayments, etc.). Any project that is considered a "treatment work" as defined in the CWA Section 212, now incorporated into the CWA as Section 502(26), must comply with Section 513, regardless of which eligibility it is funded under (see section 603(c)). It should be noted that the RI CWSRF program does not consider projects constructing or implementing green stormwater infrastructure to be treatment works.

#### **B. American Iron & Steel (AIS) and Build America Buy America Act (BABA)**

On June 10, 2014, WRRDA amended the CWA to include permanent requirements for the use of AIS in CWSRF financed treatment works projects. Section 608 of the CWA now contains requirements for AIS that repeat those of the Consolidated Appropriations Act of FY2014. As such, all CWSRF projects must comply with Section 608 of the CWA for implementation of the permanent AIS requirements. Therefore, all guidance adopted for FY2014 apply for the permanent AIS requirements for the CWSRF.

BIL added a new Build America, Buy America Act of 2021 (BABA) requirement to the CWSRF program. BABA expands existing American Iron and Steel (AIS) requirements to include construction materials and manufactured goods.

The effective date of BABA was on May 14, 2022, which means any grants awarded on or after that date must be fully compliant with BABA.

The Federal Office of Management and Budget (OMB) released program guidance to agencies on April 18, 2022. EPA is expected to issue a separate implementation procedure for BABA compliance that will likely include waivers for certain situations in order to minimize disruption of projects already planned and designed. The Bank and RIDEM will ensure compliance with BABA.

### **C. Fiscal Sustainability Planning**

For treatment works proposed for repair, replacement, or expansion, the EPA requires that Program borrowers develop and implement a fiscal sustainability plan (FSP) that includes:

- an inventory of critical assets that are a part of the treatment works;
- an evaluation of the condition and performance of inventoried assets or asset groupings;
- a certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan; and
- a plan for maintaining, repairing, and, as necessary, replacing the treatment works and a plan for funding such activities; or a certification that the borrower has developed and implemented a plan that meets these requirements.

The Borrower shall develop and implement the FSP for the Planning Area in accordance with all statutory requirements. The FSP for the Planning Area shall be submitted to the RIDEM with a copy to the Bank prior to closing on any final design or construction Loan.

### **D. Cost and Effectiveness**

Starting with the loan applications submitted as of April 1, 2016, EPA requires that borrowers provide a certification that they:

- have studied and evaluated the cost and effectiveness of the processes, materials, techniques and technologies for carrying out the proposed project; and
- have selected, to the maximum extent practicable, a project that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account:
  - the cost of constructing the project;
  - the cost of operating and maintaining the project over the life of the project; and
  - that the cost of replacing the project.

The Bank has developed a Cost and Effectiveness Self-Certification Form stating that as a condition for receiving assistance through the SRF, the Borrower hereby certifies that per Section 602(b)(13) of the WRRDA the project is Cost Effective.

## **E. Architectural and Engineering (A/E) Services Procurement**

The 2014 WRRDA Amendments requires that A/E services that are paid with Federal funds for Clean Water projects be procured using the qualifications-based selection process under Chapter 11 of title 40, United States Code or an equivalent state qualifications-based requirement.

## **VII. OTHER REQUIREMENTS**

### **A. Project Accounting**

The EPA requires that project accounts be maintained in accordance with generally accepted government accounting standards, including standards relating to the reporting of infrastructure assets. The Bank has always required that project accounts be maintained in accordance with generally accepted government accounting standards, but not particularly with respect to the reporting of infrastructure assets. The most recent applicable standard is Governmental Accounting Standards Board (GASB) Statement No. 34, issued in June 1999, which details governmental reporting requirements including standards for reporting of infrastructure assets. The Bank will be changing the standard condition in the Project Regulatory Agreement to reflect this change. It is expected that this change will have little, if any impact on SRF borrowers as most communities are already complying with GASB 34 requirements

### **B. Signage**

The Bank agrees to comply with the SRF Signage Guidance to enhance public awareness of EPA assistance agreements nationwide. The Bank will include the EPA logo on all project signs.

### **C. Public Review and Comment**

PPL Public Notice for public comment was announced in the Providence Journal on May 12, 2022 and the IUP was put on Public Notice in the Providence Journal on June 21, 2022. Additionally, the IUP will be posted on the Bank's website and the PPL has been posted on the RIDEM website providing the opportunity for public comment for thirty (30) days from the date of posting. Any public comments received will be reviewed by the Bank and RIDEM collectively.

### **D. Response to Program Evaluation Report (PER) and Audit Findings**

No actions items or recommendations were noted in the FY2021 CWSRF PER.

### **E. Update on the FFY2019, FFY2020 AND FFY2021 Capitalization Grants Utilization**

As of April 30, 2022, full utilization of the FFY2019 capitalization grant has been completed and \$1,213,972 remains in the FFY2020 capitalization grant. The monies

remaining in the FFY2020 capitalization grant is \$146,972.13 in RIDEM Admin monies and \$1,067,000 in GPR/Principal Forgiveness Funds.

Approximately \$1,493,660 remains in the FFY2021 capitalization grant. Of that amount, \$426,760 remains to be drawn in RIDEM Admin monies and \$1,066,900 remains in GPR/Principal Forgiveness funds. Remaining funds have not been drawn due to the Bank being unable to close anticipated loans to several communities/entities because they were not ready to proceed with their project.

The Bank and RIDEM continue to actively engage borrowers to utilize the SRF. The decline in SRF loans is due to most wastewater treatment plants in Rhode Island being updated in the last fifteen years. Additionally, there have not been any new Rhode Island Pollutant Discharge Elimination System (RIPDES) permit initiatives.