

2019 DRINKING WATER STATE REVOLVING FUND INTENDED USE PLAN

Safe Drinking Water Act - Protecting America's Public Health



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SECTION A: Drinking Water State Revolving Fund (DWSRF)

A-1 Plan Introduction

The national Drinking Water State Revolving Fund (DWSRF) program established by the Safe Drinking Water Act (SDWA) Amendments of 1996, authorizes the U.S. Environmental Protection Agency (EPA) to award capitalization grants to states, which in turn may provide low-cost loans and other types of assistance to eligible public water systems to finance the costs of infrastructure projects needed to achieve or maintain compliance with SDWA requirements. States are also authorized to set-aside a portion of their capitalization grants to fund a range of activities including administration, technical assistance, source water protection, capacity development, and operator certification.

In recent years, two congressional acts have made changes affecting the DWSRF program. The Water Infrastructure Improvement for the Nation Act (WIIN) which passed in December 2016 and the America's Water Infrastructure Act (AWIA) of 2018 which was signed into law on October 23, 2018. Both of these acts have direct impact on how the DWSRF program operates and will be mentioned through-out this report when changes are directly related to the section.

The Utah Legislature enacted Utah Code Annotated (UCA) 19-4-101 et seq. establishing the Utah Safe Drinking Water Board (Board). UCA 19-4-104 empowers the Board with rule making authority to meet the requirements of federal law governing drinking water. UCA 19-1-105(1)(b) establishes the Division of Drinking Water (DDW) which is tasked with the responsibility to administer UCA 19-4-101 et seq. The Board has promulgated rules for making loans incorporating the requirements of the Federal Safe Drinking Water Act at Utah Administrative Code (UAC) R309-705. Additionally, the Board is authorized by UCA 19-4-104(1)(a)(v) and 19-4-104(2) to promulgate rules for certification of operators and governing capacity development in compliance with Section 1419 and 1420 of the Federal Safe Drinking Water Act.

The responsibility of the Board is to develop policies and procedures for program implementation and to authorize loans in the DWSRF program. The Utah Department of Environmental Quality (DEQ) through DDW directly administers the DWSRF program. The DDW's primary DWSRF activities include administering loans and managing and coordinating the fund.

DDW receives assistance and support from the DEQ's Office of Support Services, the State Division of Finance, the State Attorney General's Office and the State Treasurer's Office. The salaries and benefits of the employees, as well as indirect costs based on direct salary costs, are charged to the DWSRF program. Employees charging time to the DWSRF program are covered by the State of Utah personnel benefits plan. The DWSRF program is charged a loan administration fee by the Division of Finance.

The DWSRF program requires the states to deposit to the loan fund an amount equal to at least 20 percent of the capitalization grant. Loan repayments made by assistance recipients return to the loan fund and provide a continuing source of financing. The following table summarizes awards received by DDW, the allocation between loan and set-aside funds and the required state 20% match.

Table 1 DWSRF Grants Summary

Table 1 Summary of DWSRF Grants June 30, 2018								
Federal Fiscal Year	Award Dated	Award Allocation						State 20% Match
		Total		Loan Fund		Set-Aside Funds		
		Amount	%	Amount	%	Amount	%	
1997	February 9, 1998	\$ 12,558,800	100%	\$ 9,755,575	77.679%	\$ 2,803,225	22.321%	\$ 2,511,760
1998	September 20, 1999	\$ 7,121,300	100%	5,633,563	79.109%	1,487,737	20.891%	1,424,260
1999	May 1, 2000	\$ 7,463,800	100%	6,019,720	80.652%	1,444,080	19.348%	1,492,760
2000	August 21, 2000	\$ 7,732,000	100%	6,515,880	84.272%	1,216,120	15.728%	1,551,400
2001	September 7, 2001	\$ 7,789,100	100%	6,542,844	84.000%	1,246,256	16.000%	1,557,820
2002	July 30, 2002	\$ 8,052,500	100%	6,384,100	79.281%	1,668,400	20.719%	1,610,500
2003	August 11, 2003	\$ 8,004,100	100%	6,473,444	80.877%	1,530,656	19.123%	1,600,820
2004	July 8, 2004	\$ 8,303,100	100%	6,724,604	80.989%	1,578,496	19.011%	1,660,620
2005	June 16, 2005	\$ 8,285,500	100%	6,709,820	80.983%	1,575,680	19.017%	1,657,100
2006	June 29, 2006	\$ 8,228,900	100%	6,583,120	80.000%	1,645,780	20.000%	1,645,780
2007	June 27, 2007	\$ 8,229,400	100%	6,562,696	79.747%	1,666,704	20.253%	1,645,880
2008	July 31, 2008	\$ 8,146,000	100%	6,516,800	80.000%	1,629,200	20.000%	1,629,200
2009	May 18, 2009	\$ 19,500,000	100%	18,915,000	97.000%	585,000	3.000%	0
2009	June 22, 2009	\$ 8,146,000	100%	6,822,275	83.750%	1,323,725	16.250%	1,629,200
2010	June 9, 2010	\$ 13,573,000	100%	11,401,320	84.000%	2,171,680	16.000%	2,714,600
2011	July 1, 2011	\$ 9,418,000	100%	7,440,220	79.000%	1,977,780	21.000%	1,883,600
2012	June 12, 2012	\$ 8,975,000	100%	6,590,250	73.429%	2,384,750	26.571%	1,795,000
2013	June 26, 2013	\$ 8,421,000	100%	6,224,890	73.921%	2,196,110	26.079%	1,684,200
2014	June 9, 2014	\$ 9,229,000	100%	6,779,460	73.458%	2,449,540	26.542%	1,845,800
2015	June 8, 2015	\$ 9,169,000	100%	6,645,060	72.473%	2,523,940	27.527%	1,833,800
2016	May 19, 2016	\$ 8,674,000	100%	5,485,060	63.236%	3,188,940	36.764%	1,734,800
2017	September 28, 2017	\$ 8,600,000	100%	5,800,000	67.442%	2,800,000	32.558%	1,720,000
2018	September 26, 2018	\$ 11,107,000	100%	8,200,000	73.827%	2,907,000	26.173%	2,221,400
	Total	\$214,726,500	100%	\$170,725,701	79.508%	\$44,000,799	20.492%	\$39,050,300

Utah's DWSRF program results through SFY18

- ✓ Utah's DWSRF Fund Use Rate at the end of SFY18 was 75%. From the beginning of the program thru FY 2018 the DWSRF fund has provided drinking water assistance to communities of approximately \$229.9 million, \$308 million was available.
- ✓ In SFY18, Utah entered into twelve binding commitments for a total of \$16,002,075. As of March 1, 2019, DWSRF had eleven projects authorized by the Drinking Water Board totaling \$35,700,500, with five more loans which have already closed during the first half of FY 2019 totaling \$5,884,273.
- ✓ The calculation of the use rate as of February 28, 2019 was maintained at a use rate of 75%. DDW anticipates closing about fifty million in new shovel ready loans in fiscal year 2020, which should increase the current use rate.
- ✓ The allotment between states is based on state needs surveys. DDW was allocated one hundredth percent for the federal fiscal years 2018 through 2021. It is anticipated that the needs survey process will begin once again soon for the years 2022 through 2025.

- ✓ DDW will continue to contract with Rural Water Association of Utah (RWAU) to assist small public water systems. They anticipate assisting approximately 300 water systems with capacity development or technical assistance.
- ✓ The State Auditor, in compliance with the provisions of the Single Audit Act, audits the DWSRF accounts. DWSRF accounts are also subject to review and audit by USEPA, the Office of the Inspector General. DWSRF Funds are included in Utah's Comprehensive Annual Financial Report (CAFR), which uses the modified accrual bases of accounting. Because funds are combined the DWSRF assets, liabilities, and net assets are not identifiable in Utah's CAFR.
- ✓ The State is required to submit an annual Intended Use Plan (IUP) to EPA as long as the Fund or set-aside accounts remain in operation.
- ✓ DDW under the direction of the Board administers the loan and set-aside programs.
- ✓ The DWSRF program and procedures are expected to primarily continue similarly as is described in the Operating Agreement.

A-2 DWSRF Loan Program

The loan program funds low-cost loans and other types of financial assistance to publicly owned and privately owned community water systems and non-profit non-transient water systems to finance the costs of infrastructure projects. States are responsible for developing a priority system that identifies how projects will be ranked for funding and a list of projects, in priority order, that are eligible for funding. A description of the criteria and the method used for distribution of loan funds is outlined in Utah Administrative Code R309-705. AWIA extended both the length of years eligible for water systems to repay the debt and the maximum time period allowed before requiring the first payment due on the outstanding principal balance.

Loans Program Eligibility Requirements

1. Repayment must begin no later than 18 months (previously 12 months change was part of AWIA Act) after completion of the project.
2. Loan repayment must be completed no later than 30 years (previously 20, the change was due to AWIA Act) after the completion of the project. A disadvantaged community loan may have up to 40 years (previously 30, the change was due to AWIA Act) as long as the period of the loan does not exceed the expected design life of the project.
3. A minimum of 15% of all dollars credited to the loan fund must provide loans to small systems, those that serve fewer than 10,000 persons.
4. Funding can be used for principal forgiveness for communities meeting the State's "Disadvantaged" criteria. The Board has defined disadvantaged communities as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax Commission from federal individual income tax returns excluding zero

exemption returns or where the established annual cost of drinking water service to the average residential user exceeds 1.75% of the median adjusted gross income.

5. The 2019 DWSRF capitalization grant may require a percentage of federal funds to be used for additional subsidization in the form of principal forgiveness, negative interest loans, or grants, or any combination of these. This will be defined in the programmatic conditions of the award and will be followed as defined.
6. It is anticipated the American Iron and Steel (AIS) provision will be included in the federal FY19 appropriation bill for the 2019 DWSRF capitalization grant. The AIS provision requires iron and steel products used during the construction of drinking water projects be produced in the United States. DDW intends to follow this requirement and request a waiver for an exception when necessary.
7. It is not anticipated the 2019 capitalization grant will require “Green Infrastructure Projects”.
8. Construction bids are required to use Davis-Bacon Act wage rules.

Interest and Fees

1. Federal rules section 1452 allows the state to assess interest and/or fees. Fees are calculated and paid in the same manner as interest. Fees have fewer restrictions than interest. The Board has authorized by Rule the establishment of a fund (or account) into which the proceeds of annual fees are placed.
2. Interest payments are deposited to the same loan fund as principal payments and have the same restrictions.
3. Hardship fees are deposited to a separate fund authorized for providing grants to water systems through a state revolving fund (SRF) loan program.
4. Technical Assistance fees are to finance technical assistance for eligible water systems or other purposes as allowed by section 1452. This fee is part of the “effective rate” calculated using Table 2, R309-705-6. UAC R309-705-3 defines a SRF Technical Assistance Fund which means a fund (or account) that will be established for the express purpose of providing “Technical Assistance” to eligible drinking water systems. These fees are deposited into the hardship fee fund and are tracked separately. The Technical Assistance Fund will also provide low interest loans for technical assistance, and any other eligible purpose as defined by Section 1452 of the SDWA Amendments of 1996, to water systems that are eligible for Federal SRF loans. Repayment of these loans may be waived in whole or in part (grant funds) by the Board whether or not the borrower is disadvantaged.

5. **Origination Fee:** The Utah State Legislature established an origination fee to be charged to all new loans to fund the administration of the DWSRF program in accordance with UCA 73-10c-10. The set fee of 1% continues to be the rate charged by the Board. It is reviewed annually and may change based on the needs of the program. The origination fee amount is assessed to the loan recipient as a percentage of the principal balance of the loan. It is generally paid at closing as a one-time fee, but the loan recipient may choose to pay separately or with their first pay request from the loan proceeds. All proceeds are deposited into a separate fund. Since fees will be deposited into an account outside of the Fund, they will only be used for program administration or other purposes for which capitalization grants can be awarded under section 1452. Currently, these fees will not be used for any state match requirements. In addition, this fee will not be charged to any disadvantaged community which receives a loan subsidy provided from DWSRF funding.

State fund Drinking Water Loan Program

The Division of Drinking Water also operates a State funded Drinking Water Assistance Program also known as the Water Development Security Fund UCA 73-10c-5. The state program provides Utah the flexibility to put together loan packages without the restrictions that accompany the DWSRF program. The DWSRF program requires a 20% state match which is generated from the state SRF loan program.

A-3 Set-Asides

In addition to loan assistance to eligible public water systems, the DWSRF program also emphasizes the prevention of drinking water contamination by allowing states to reserve a portion of their grant to fund activities that encourage enhanced water system management and source water protection. The funded activities are referred to as set-aside funds.

The Water Infrastructure Improvements for the Nation (WIIN) Act which passed in December 2016; revised two set-asides. The WIIN Act removed the state 1:1 match for the ten percent set-aside and provided three options to choose from for the four percent set-aside. DDW will comply with all programmatic and administrative conditions as required for this grant award.

Set-aside activities include:

1. The four percent set-aside provides an allotment to administer the DWSRF and provide technical assistance to public water systems. The calculation for the four percent administrative set-aside consists of choosing the greatest one of three options: 1) \$400,000; 2) 1/5 percent of the current valuation of the fund (must be an audited fund); or 3) an amount equal to four percent of all grant awards in the fund under this section for the fiscal year.
2. Up to ten percent of the allotment for state program management activities, including administration of the state public water system supervision program, administration of the source water protection program, development and implementation of the capacity development and operator certification programs. Prior to the WIIN Act of 2016, the

10% set-aside required a dollar-for-dollar state match; this is no longer required. Along with the 1:1 state match requirement change, the 1993 state match credit of \$855,668 per 40 CRF 35.3535 (d) (2) is also no longer necessary as it was a credit applied to the 1:1 state match.

3. Up to two percent of the allotment to provide technical assistance to small public water systems.
4. Up to 15 percent of the capitalization grants to assist in the development and implementation of local drinking water protection initiatives, including capacity development, wellhead protection and other state programs.

SECTION B - Intended Use Plan

B-1 Summary, Financial Status and Goals

An Intended Use Plan (IUP) explains how the State will use all funds available from the capitalization grant, including funds that will be allocated to the set-asides. Specifically, the IUP describes how DDW plans to use available funds. Funds are received from the federal capitalization grants, the state match, loan repayments including interest and fee payments, and investment earnings.

The State is applying for the 2019 DWSRF appropriation based on the 2018 amount of \$11,107,000. DDW is requesting \$8,100,000 to be added to the loan fund and \$3,007,000 to the set-aside program. The federally mandated 20% state match of \$2,221,400 will be funded from the Drinking Water State loan program and will be available to transfer into the DWSRF fund within 90 days of the award date. However, DDW anticipates amounts will be adjusted according to actual budget as Congress provides.

The Intended Use Plan (IUP) is for the 2019 DWSRF appropriations and will include:

1. Specifics on how the Board proposes to use the appropriations;
2. A description of the goals of the DWSRF program;
3. A list of projects eligible to receive DWSRF funding, which identifies those serving less than 10,000 people;
4. Cost estimates for listed projects;
5. An estimate of funds anticipated to be available for financial assistance;
6. Criteria for selecting projects to receive financial assistance;
7. Criteria for determining which communities qualify for hardship status;
8. The project scoring and ranking system;
9. Projects authorized for funding and those anticipated to be closed in FFY2019 and the 1st or 2nd quarter of FFY2020.

Short and Long-Term DWSRF Goals

The DWSRF program will help ensure Utah’s drinking water supplies remain safe and affordable, and drinking water systems are properly operated and maintained. The objectives of the DWSRF program include ensuring the public health, achieving compliance with SDWA, and assisting systems to provide affordable drinking water.

Short-Term Loan Program Goals

1. Seek the award of the FFY 2019 Capitalization Grant to secure federal funding for the DWSRF program and follow all the grant requirements.
2. Engage in a more aggressive marketing process to reach water systems in need of capital improvements, willing and able to meet DWSRF requirements.
3. Work diligently with borrowers to secure authorization of funding from the Board and closing loans in a timely and efficient manner to DWSRF loan applicants.
4. To maintain a permanent and solvent source of funding to assist communities with financing water systems’ capital improvements thereby assisting them to maintain compliance with USEPA standards and promote public health.
5. Develop better cross/legacy training to improve employee development and to help with employee transitions.
6. Improve DDW relationships with drinking water stakeholders and others.

Long-Term Goals and the Set-Aside Goals

1. To help public water suppliers achieve and maintain compliance with Federal and State drinking water standards.
2. Continue outreach activities to ensure systems understand DWSRF assistance options and the need to develop managerial, technically and financially sound water systems.
3. Continue to educate and support water suppliers with their water protection (counter-terrorism) efforts.
4. Continue to expand and automate the Operator Certification program. Create an online “Backflow 101” screencast training course.
5. Improve on-boarding process for new hires
6. Continue identifying noncompliant water systems using the ETT (Enforcement Target Tool) to assist them to provide safe drinking water to the public.

Transfer and Cross-Collateralization of Funds between the DWSRF and CWSRF

Section 302 of the SDWA authorizes the transfer up to 33 percent of the amount of a fiscal year’s DWSRF program capitalization grant to the CWSRF program or an equivalent amount from the CWSRF program to the DWSRF program. There has been no transfer of funds and no transfers are anticipated.

Withholding of Funds

EPA has the ability to withhold funds under certain provisions, but the DWB/DDW has complied with the following:

1. The State has authority to ensure all new community water systems and new non-transient, non-community water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each drinking water regulation in effect. Utah Code Annotated 19-4-104 empowers DDW with rule making authority to meet the requirements of Federal law governing drinking water.
2. The State has developed and is implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.
3. The State has adopted and is implementing a program for certifying operators of community and non-transient, non-community public water systems.

EPA has approved the State's capacity development and operator certification programs.

Public Review of the IUP

A draft IUP will be published on the Drinking Water web site, www.drinkingwater.utah.gov in April, 2019. Notice of the posting and request for public comment will be included in the DW Board's June 11, 2019 meeting. Minutes will be e-mailed to individuals and agencies asking for review and comments in May 2019. Comments may be made in writing addressed to the Board at 195 North 1950 West, PO Box 144830, Salt Lake City, Utah 84114-4830 or in person at a regular scheduled Board meeting. Comments received will be reviewed and incorporated as deemed necessary into the set-aside work plan (due to EPA 90 days from grant award date); however no comments are anticipated to be received.

Financial status

Initial capitalization for the Utah DWSRF program was provided from the 1997 Federal Capitalization Grant and state matching dollars. For the 21 years, 1997 through 2018, DWSRF capitalization grants totaled \$214,726,500. \$171,144,401 was the total loan program portion and \$43,582,099 was used in the set-aside programs. The State 20% match for the same period was \$39,050,300 was added to the loan program.

Through April 30, 2019 the Board has authorized about 226 projects totaling approximately \$322,980,277. A total of 150 projects totaling \$240,433,654 have been closed (committed) thru the end of fiscal year 2018. So far another six projects have closed in fiscal year 2019 totaling \$7,368,273. Total of 156 closed projects equal \$247,801,927. DDW anticipates the Granger Hunter Improvement District project of \$20,000,000 to close by the end of June 2019, using the 2018 AWIA provision for programmatic financing. Revenue, disbursements and balances are shown in the financial statements thru June 30th, 2018.

DDW is applying for \$11,004,000 using the 1% allocation and based on the continuing

resolution as adopted by Congress in fiscal year 2019. When funding is finalized, amounts may be changed to reflect the authorized amounts. It is anticipated \$8,100,000 will be provided to the loan fund and \$2,904,000 to set-asides. The state 20% match of \$2,200,800 will be transferred to the loan fund within 90 days of the award date. The WIIN Act passed in December 2016 – removed the 1:1 state match required for the 10% set-aside for all grant awards issued thereafter. Table 2 identifies the maximum set-asides which could be requested if every possible set-aside percentage and all reserves were requested to be awarded for in the 2019 capitalization grant.

Table 2 Maximum Available Set-Asides

TABLE 2				
MAXIMUM AVAILABLE SET-ASIDE AWARDS W/STATE MATCH				
IF ALL RESERVES WERE USED THIS YEAR				
ACTIVITY	PROG ELEM	BEG RESERVE BALANCE	2019 max with 20% State Match	
Loan Fund	19DA		5,765,520	2,200,800
Combined Loan w/state match		-		7,966,320
4% Administrative Set-Aside	19DD		440,160	4%
4% Reserve Amount		848,760		
Maximum 4% w/max reserves		848,760	440,160	1,288,920
2% Small Sys Tech Asst Max	19DE		220,080	2%
2% Reserve Amount		173,480		
		173,480	220,080	393,560
10% Reserve Amount	19DF	805,000		
PWS Supervision full 10%			1,100,400	10%
Capacity Development Oversight				
Source Water Protection				
Operator Certification				
TOTAL State Program Set-Aside		805,000	1,100,400	1,905,400
15% Local Assistance Set-Aside Max	19DG	no reserve	1,650,600	15%
TOTAL Local Assistance Set-Aside		-	1,650,600	1,650,600
(No more than 10% in one category)				
TOTALS				
TOTAL LOANS W/STATE MATCH			5,765,520	2,200,800
TOTAL SET-ASIDES AVAILABLE		1,827,240	3,411,240	
TOTAL CAPITALIZATION GRANT		1,827,240	9,176,760	13,204,800

Table 3 Sources and Uses

SOURCES AND USES TABLE 3			
	Cumulative Total thru 6/30/2018	7/1/18 - 6/30/19	Cumulative Total thru 6/30/2019
SOURCES:			
Federal Capitalization Grants	203,619,500	a 11,107,000	214,726,500
State Match			-
20% Capitalization Grant Match	36,828,900	b 2,221,400	c 39,050,300
10% Set-Aside 1:1 Match	18,041,630	d -	18,041,630
Principal Repayments on Assistance Provided	87,243,124	e 6,228,600	93,471,724
Interest Repayments on Assistance Provided	14,832,417	1,379,758	16,212,175
Investment Earnings	6,211,078	1,904,226	8,115,304
Funds from Leveraging	-	-	-
Fees Deposited into the DWSRF	-	-	-
Funds Transferred from (to) CWSRF	-	-	-
Sources Total	366,776,649	22,840,984	389,617,633
USES:			
Loan/Grant Agreements Entered:			
Large Systems (>10,000 population)	56,163,595	-	56,163,595
Small Systems (≤10,000 population)	183,125,055	5,974,273	189,099,328
Additional Subsidy	39,915,725	5,335,273	45,250,998
Projects w/loans pending (shovel ready projects)	-	21,892,000	21,892,000
Projects authorized w/loans pending	5,974,273	13,808,500	19,782,773
Proposed Projects not yet authorized	-	5,064,000	5,064,000
Projects not yet submitted (available 2nd round)	-	35,987,168	35,987,168
Set-Asides:			-
4% Administration	7,352,914	444,280	7,797,194
2% Small System Technical Assistance	3,900,787	227,180	4,127,967
10% State Program Management- 1:1 match	18,041,630	-	18,041,630
PWSS Program Augmentation	15,999,164	825,700	16,824,864
Source Water Administration	1,448,825	70,000	1,518,825
Operator Certification	1,042,395	50,000	1,092,395
Capacity Development Program Oversight	365,778	15,000	380,778
PD Database	620,000	-	620,000
State Program Management Total	37,517,792	960,700	38,478,492
15% Local Assistance/Other State Programs			-
Local Assistance & Capacity Development Outreach	7,751,006	1,110,700	8,861,706
Capacity Development Project in 1998	997,537	-	997,537
Source Water Assessments	352,978	-	352,978
Wellhead and GIS tracking	843,715	169,180	1,012,895
LA/Other State Program Subtotal	9,945,236	1,279,880	11,225,116
Uses Total	303,979,652	85,637,981	389,617,633

- a. Total federal appropriation thru FFY 2018 Capitalization Grant. DDW uses a FIFO methodology for Unliquidated Obligations which can be found in Table 7 "2019 and 2020 Cash Flows and Cash Draw Proportionality" Page 17. (Grant award for 2018 was not awarded until Sept 2018.)
- b. 20% State Match came from Water Development State Revolving Fund thru FY 2017.
- c. DDW does not leverage any of their SRF funds.
- d. 20% State match for 2018 & 2019 Capitalization Grants will be deposited to fund within 90 days of award date.
- e. Any award entered after December 16, 2016, no longer requires the 1:1 State Match in accordance with the 2017 WIIN Act.
- f. 2019 repayments, interest and investment earnings are estimated.

B-2 Loan Program

UAC R309-705 establishes criteria for financial assistance to public drinking water systems in accordance with the Federal SDWA. A copy of UAC R309-705 can be found at <http://www.rules.utah.gov/publicat/code/r309/r309-705.htm>. The 2019 DWSRF capitalization grant along with carry forward funds from previous grant awards, repayments, interest and fee payments, and investment earnings provides the funds the Division has available to help public water systems finance needed drinking water projects.

Description of Criteria and Method Used for Distribution of Loan Funds

The complete description of the criteria and method used for distribution of funds is outlined in Utah Administrative Code (UAC) R309-705-6. As described in R309-705-6, the priority system assigns points to systems showing a deficiency in source, storage, treatment, and/or the distribution system. Points are assigned based on the relative risk of each deficiency, and are divided as applicable between health risk and compliance with SDWA. The applicant's priority points are modified by a financial factor, known as the Rate Factor, and the AGI Factor. Their calculation is shown below:

Priority rating = (Average number of points received) X (Rate Factor) X (AGI Factor)

Where: Rate Factor = (Average System Water Bill / Average State Water Bill)

AGI Factor = (State Median AGI / System Median AGI)

The priority points for demonstrated deficiencies are multiplied by the Rate Factor and AGI Factor to arrive at a final priority rating. This method addresses financial hardships present in less affluent communities and in those already experiencing higher water rates.

Upon arriving at a final priority rating for each applicant, each application is rated and added to the priority list. The Board may, at its option, modify a project's priority rating based on the conditions described in R309-705. The Board sets the effective interest, hardship fee and/or technical assistance fee rate and decides the amounts allowed for principal forgiveness or grants. The most current Revenue Bond Buyer Index (RBBI) is used as the base rate. Table 2 in UAC R309-705-6 is used to determine the reduction of the interest rate (or other rate) which potentially may be reduced to zero percent.

Project Priority List (PPL)

DDW operates with a continuous project priority list. When applications are received throughout the year, they are reviewed to ensure compliance with federal and state drinking water regulations and scored based on the rating factors indicated in the previous paragraph. Currently, all applications meeting requirements are prepared to be taken to the Board for authorization. (The Board is required by Utah law to meet at least quarterly.) Since the applications are submitted throughout the year and may be scored and closed quickly, on occasion a water system project may not have been included in any intended use plan.

However, the continually updated PPL is posted on the division website and additions or changes are approved by the Board.

The PPL will be used for the 2019 DWSRF capitalization grant and any other funds used for loan projects. Projects authorized by the Board but which have not been closed are entered in the section titled “Authorized Funding”. Staff is working with these systems to meet EPA requirements to close the loans. A list of authorized and proposed projects requiring funding is listed next in Table 4.

Table 4 Authorized Funding

TABLE 4. AUTHORIZED FUNDING as of 4/30/2019				
Community	Loan #	Loan Amt	Forgiveness	Total
Swiss Alpine Water Company	3F300	807,000		807,000
Twin Creeks SSD (Phase II)	3F1716	3,395,000	300,000	3,695,000
West Corinne Water Co	3F305	500,000		500,000
Lincoln Culinary Water Assn	3F1696	1,510,000	1,006,000	2,516,000
Virgin Town	3F1702	400,000	400,000	800,000
Canyon Meadows Mutual Wtr	3F1700	1,540,000	385,000	1,925,000
Diamond Valley Acres	3F1706	235,000		235,000
Granger Hunter ID	3F1708	20,000,000		20,000,000
Marysvale	3F1709	2,932,000	733,000	3,665,000
PROPOSED AND POTENTIAL PROJECTS				
Community	Loan #	Loan Amt	Forgiveness	Total
Kearns Improvement District	3F1725	21,000,000		21,000,000
Bluffdale City	3F1726	6,000,000		6,000,000
Ogden Municipal	?	16,000,000		16,000,000
Boulder Farmstead	?	?		0
		74,319,000	2,824,000	77,143,000

Green Infrastructure

The 2019 capitalization grant does **not** require projects to meet a minimum percentage to be used for water efficiency, energy efficiency, green infrastructure, or other environmentally innovative activities. However, DDW is always pursuing green projects including technological innovations to enhance green development.

Delayed Authorized Projects

Table 5 identifies and explains water system projects which were scored and included in previously submitted project priority lists or were previously included in the 2018 Intended Use Plan. Some of these projects have merely been substantially delayed while others have

withdrawn their request or their funding has changed and the project will not be funded with federal DWSRF funds for a variety of reasons.

Table 5 Water System Projects

TABLE 5 - DELAYS			
Community	Loan #	Amt of Loan	Reason not funded
Juab County	3F259	21,210,000	Deauthorized - County was unable to make project work.
Virgin Town	3F272	800,000	Revised project authorized in 2018 to reduce scope and was re-authorized Jan 2019.
Cove SSD	3F285	\$1,085,000	Bids came in higher than anticipated, needed more funds - loan closing was delayed but project was closed in April 2019.
Community Water Company	3F291	3,662,000	Project was deauthorized and redesigned. Mountain Regional SSD was authorized from DDW State Funds for a revised project in July 2018.
Twin Creeks SSD	3F295	5,338,000	Phase I was closed in Dec 2018 of \$1,643,000 and is currently under construction. Phase II is anticipated to close in Dec 2019.
Swiss Alpine Water	3F300	807,000	Well and distribution system. ???
Storm Haven	on PPL	2,041,414	Never authorized. Project had flaws?
Greenwich	3F258	130,000	New Chlorination Bldg was deauthorized due to lack of cooperation with the community

Current status and shovel ready loans

DDW staff routinely promotes the program and encourages water systems to apply for financial assistance at conferences, in presentations and training sessions, and through letters written to both water system administrative contacts and consulting engineers. Although DDW is aware of the need for drinking water system infrastructure improvement projects at systems throughout the state, to date these efforts have produced limited results. DDW will continue to explore ways to better market the DWSRF loan program with drinking water systems. Many water systems in Utah qualify and require substantial principal forgiveness (which is currently very limited in the Utah DWSRF Program). Therefore, if Congress were to increase principal forgiveness limits, it would likely encourage decision-makers to improve their system infrastructure and maintain compliance with regulations.

Table 7 identifies shovel ready projects from the authorized table projecting a federal draw forecast to provide federal cash flow in SFY 2019. All projects listed are either in progress or are shovel ready and should be closed in the summer of 2019 or early 2020 calendar year.

Table 6 Federal SRF program

Utah Federal SRF Program – Table 6								
	Priority Points				PPL Total Needs, incl. recently funded = \$273,133,991			
		System Name	County	Pop.	Project Title	Project Total	Request DWB	Funds Authorized
N	28.40	Kearns Improvement Dist	Salt Lake	51,500	Multiple tanks, booster pump station, trans line upgrade	\$21,000,000	\$21,000,000	
N	25.00	Greenwich	Piute	67	Chlorination building	\$130,000	\$130,000	
N	14.40	Bluffdale	Salt Lake	15,435	4 MG tank, transmission line	\$6,900,000	\$6,900,000	
A	33.30	Granger-Hunter ID	Salt Lake	121,083	Reservoir storage, dist lines, booster station, well trmnt	\$25,950,000	\$20,000,000	\$20,000,000
A	31.60	Virgin Town	washington	596	New tank and distribution lines	\$1,200,000	\$800,000	\$800,000
A	30.70	Canyon Meadows	Wasatch	100	Trans line, Dist line, Tank, treatment plant	\$1,724,068	\$1,724,068	\$1,925,000
A	24.30	West Corrine	Box Elder	1,275	Spring redevelopment and transmission line replacement	\$533,075	\$479,767	\$500,000
A	20.30	Marysvale Town	Piute	420	Well improvement, chlorination bldg, booster pump, dist line	\$3,665,000	\$3,665,000	\$3,665,000
A	19.50	Twin Creeks SSD	Wasatch	2,500	Treatment Plant, Storage Tank	\$4,029,650	\$3,757,000	\$3,695,000
A	18.80	Swiss Alpine	Wasatch	300	New Well and transmission line	\$955,152	\$815,152	\$807,000
A	16.60	Lincoln Culinary	Tooele	489	Well development, trans line, dist line, supply line	\$2,516,000	\$2,516,000	\$2,516,000
A	7.20	Diamond Valley Acres	Washington	1,370	Well equipping and conn to system	\$235,000	\$235,000	\$235,000
		TOTAL AUTHORIZED						\$34,143,000
<i>N = New Application</i>								
<i>A = Authorization</i>								
<i>P = Potential Project – No authorization</i>								

Table 7 Federal Cash flows and Draw Forecast

TABLE 7 – 2019 and 2020 FEDERAL CASH FLOWS AND DRAW FORECAST											
SUBRECIENT	LOAN NO	BINDING CLOSED DATE	STRT DATE	TOTAL ULO's and new loan amounts	FFY 2019 Ending 9/30/19				SFY 2020 Ending 6/30/20		
					QTR 1 (O-D 18)	QTR 2 (J-M 19)	QTR 3 (A-J 19)	QTR 4 (J-S 19)	QTR 1 (O-D 19)	QTR 2 (J-M 20)	QTR 3 (A-J 20)
Closed loans fed funds not fully disbursed as of 6/30/2018											
2018 Closed loans											
Springdale	3F264	Oct-17	Oct-17	1,217,000	1,217,000						
Cedarview Montwell SSD	2F188	Mar-18	Mar-18	252,875	252,875						
Big Plains Water & Sewer	3F290	May-18	May-18	517,125	517,125						
Rocky Ridge	3F286A	Jun-18	Jun-18	405,000	405,000						
Winchester Hills Water Company	3F277A	Jul-18	Jul-18	450,000	450,000						
Torrey Town	3F287	May-18	May-18	596,400	596,400						
Torrey Town	3F287	May-18	May-18	993,600	500,000	493,600					
Twin Creeks SSD	3F295	Dec-18	Dec-18	1,343,000	1,343,000						
San Juan Spanish Valley WCD	3F275	Jan-19	Jan-09	2,550,000		600,000	1,000,000	950,000			
Cove SSD	3F285		Jun-19	668,000			668,000				
2019-2020 loans based on projected start dates											
Granger Hunter ID - split	3F1708		Jun-19					600,000			
Granger Hunter ID = split	3F1708		Jun-19	4,000,000					500,000	500,000	2,400,000
Swiss Alpine Water	3F300		Jul-19	807,000				807,000			
Virgin Town	3F1702		Aug-19	800,000				793,800			
Twin Creeks SSD	3F1716		Dec-19	2,713,400					900,000	1,200,000	613,400
Lincoln Culinary Water Assn	3F1696			2,516,000						1,000,000	1,516,000
Cany on Meadows Mutual Wtr	3F1700			1,925,000						1,000,000	925,000
West Corinne Water Co	3F305			500,000							500,000
May svale	3F1709			3,665,000							3,665,000
2019-2020 potential projects											
Kearns Improvement District	3F1725			4,000,000					1,245,400	954,600	1,800,000
Bluffdale	3F1726			6,000,000							6,000,000
TOTALS				\$ 35,919,400	\$ 5,281,400	\$ 1,093,600	\$ 1,668,000	\$ 3,150,800	\$ 2,645,400	\$ 4,654,600	\$ 17,419,400
2017 SRF AWARD #FS 99878417 Balance 100% federal				\$ 1,217,000	\$ 1,217,000						
State Match was fully trnsfrd to loans by Oct 2016.				\$ 1,217,000	\$ 1,217,000	\$ -	\$ -	\$ -	\$ -	\$ -	
2018 SRF AWARD #FS 99878418 \$11,107,000 fed				\$ 8,200,000	\$ 1,843,000	\$ 1,093,600	\$ 1,668,000	\$ 950,000	\$ 2,645,400		
State Match was 100% trnsfrd to loans by Aug 18. state				\$ 2,221,400	\$ 2,221,400						
				\$ 10,421,400	\$ 4,064,400	\$ 1,093,600	\$ 1,668,000	\$ 950,000	\$ 2,645,400	\$ -	
2019 SRF AWARD #FS 99878419 \$11,004,000 fed				\$ 8,100,000						\$ 4,654,600	\$ 3,445,400
State Match will be fully trnsfrd prior to any fed \$ being disb state				\$ 2,200,800				\$ 2,200,800			
				\$ 10,300,800	\$ -	\$ -	\$ -	\$ 2,200,800	\$ -	\$ 4,654,600	\$ 3,445,400
2020 SRF AWARD				\$ 13,974,000							\$ 13,974,000
Total of all grants				\$ 35,913,200	\$ 5,281,400	\$ 1,093,600	\$ 1,668,000	\$ 3,150,800	\$ 2,645,400	\$ 4,654,600	\$ 17,419,400

Additional information: 1. The 20% state match is transferred 100% into the DWSRF fund when the DWSRF grant is awarded (within 90 days).
2. All federal funds are disbursed using a FIFO method (first in first out)

Assistance for Disadvantaged Communities

Section 1452 (d) changed in the 2009 to require states to provide a minimum of 20 percent additional loan subsidies in the form of negative interest, grants or principal forgiveness to benefit communities meeting the State’s definition of “disadvantaged”. Since then there has been a variety of changes as to how much subsidization have been required each year or that may have been permitted with a ceiling percentage as high as 50 percent of the annual DWSRF capitalization award amount. The 2019 allotments from the Consolidated Appropriations Act of 2019 now mandates the states use at least six percent but not more than 35 percent for additional subsidization of the 2019 allotment of the DWSRF capitalization grant. Additional authority was authorized in the America’s Water Infrastructure Act (AWIA) of 2018. In AWIA’s authority, States must use 20 percent of the funds made available in the 2019 DWSRF capitalization grant to provide additional subsidization to eligible disadvantaged recipients. Therefore, a minimum of 26 percent to a ceiling amount of 55 percent will be included with the 2019 – 2020 loans closed to provide subsidization to any DWSRF eligible applicant based on the definition adopted the State’s definition. DDW will comply with the programmatic conditions of the grant award to match the 2019 subsidization requirements.

The Board defines disadvantaged communities as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State’s median adjusted gross income, as determined by the Utah State Tax Commission (USTC) from federal individual income tax returns excluding zero exemption returns, or where the estimated annual cost, including loan repayment costs of drinking water service for the average residential user exceeds 1.75% of the median adjusted gross income. If, in the judgment of the Board, the USTC data is insufficient, the Board may accept other measurements of the water users income (i.e. local income survey or questionnaire when there is significant difference between the number of service connections for a system and the number of tax filing for a given zip code or city, or when the water system claims that the MAGI (incomes) of its users is lower than the MAGI (incomes) of the larger community covered by the USTC data).

The amount and type of financial assistance offered by the Board will be based upon the criteria shown in UAC R309-705-6 (2). Disadvantaged communities may receive zero-percent loans, negative interest rate loans, principal-forgiveness loans or grants. Terms for each method of financial assistance shall be determined by a Board resolution.

The Board has not set any pre-determined amount of DWSRF funds that may be used for principal forgiveness to disadvantaged communities. It is the Board’s intention to authorize additional subsidization only to communities that meet the “disadvantage criteria”.

Costs Incurred After Application and Prior to Execution of the Loan Agreement

Eligible project costs incurred after application to the Board and prior to execution of the loan agreement are eligible for reimbursement. Reimbursement will only be made after the loan closing.

Municipal Bond Legal Fees

The Board may purchase bonds of the applicant only if the bonds are accompanied by a legal opinion of a recognized municipal bond counsel selected by the Board UAC (R309-705-8 (2)). The loan recipient is responsible for the legal costs. Legal costs may be paid from the loan proceeds.

Capacity Development Requirements

Eligible Systems - The SDWA allows DWSRF assistance to publicly and privately owned community water systems and nonprofit, non-community water systems other than systems owned by Federal agencies. Federal Regulations also set forth certain circumstances under which systems that will become community water systems upon completion of a project may be eligible for assistance. UAC R309-705 Financial Assistance: Federal Drinking Water Project Revolving Loan Program (Effective July 1, 2011) establishes criteria for financial assistance to public drinking water systems in accordance with a federal grant 42 U.S.C. 300j et seq., Federal Safe Drinking Water Act. The SDWA requires that loan recipients must demonstrate the technical, managerial, and financial capacity (TMF) to comply with the SDWA and not be in significant noncompliance with any requirement of a national primary drinking water standard or variance. The State will assess TMF and compliance in accordance with UAC R309-800 Capacity Development Program after loan applications have been received. Those systems lacking in TMF or compliance may still be eligible for a loan if the loan will address the non-compliance or the system agrees to undertake feasible and appropriate changes in operations. In accordance with the AWIA changes, DDW will include in the state capacity development triennial report to the Governor a description of how the state will implement procedures to encourage the development of technical, managerial, financial and an asset management plan program with provisions of technical assistance. It is DDW's intention to encourage water systems to implement asset management plans that include best practices in any training or technical assistance into the division's capacity development methodologies.

Environmental Reviews and Categorical Exclusions

The State Environmental Review Process (SERP) is described in the Operating Agreement.

The Grantee, the State of Utah, may elect to partition an environmental review or Categorical Exclusion (Cat Ex) from environmental review. The procedures listed below will be followed by the State in order to evaluate if partitioning a project from environmental review is appropriate.

A. Authority

The authority for including these procedures in the Division's Intended Use Plan (IUP) and State Environmental Review Process (SERP) is contained in the SDWA Amendments of 1996 (Pub. L. 104-182) and the guidance provided by the EPA DWSRF Program Guidelines, document # 816-R-97-005 (February 1997). In particular, see Section IV. STATE/PROJECT LEVEL AUTHORITIES, Subsection B. Environmental Reviews.

1. Procedures for Making Determination Cat Ex:
2. If the Division has reason to believe that the project falls within one of the categories listed under paragraph “C” and thereby may qualify for a Cat Ex from environmental review, the State will make a preliminary survey of the proposed project site(s).
3. During this survey the State will evaluate whether or not the project meets the criteria for a Cat Ex from environmental review.
4. If the State determines the site qualifies for Cat Ex from environmental review, it will document the justification of this determination, including a listing of the dates of activities, which led to this determination, and a statement of relevant findings.
5. Even if the project qualifies for Cat Ex from environmental review according to the criteria listed under paragraph “C”, the State may require an environmental review if the State determines that an environmental review is warranted or appropriate because of conditions found at the site or because the project is controversial.

Criteria for Categorical Exclusion from Environmental Review

In order for a project to qualify for an environmental determination of Cat Ex from environmental review, the general location of the project should have been previously disturbed. Site conditions which will be evaluated in making this determination include a) how urbanized the location is, b) whether wildlife has previously been displaced, and c) whether the wildlife habitat has been previously destroyed or replaced. The project site shall meet at least one of the following criteria:

1. A proposed water line will be placed in a roadway(s) and/or rights-of-ways where existing pipes, telephone wires, cables, or other facilities have previously been installed.
2. A proposed tank site will be located on a site with other previously constructed utility facilities on a previously disturbed site.
3. The proposed facilities will be located at a site with other existing community infrastructure; e.g. a booster station, pump house, water treatment plant, or similar facility within a previously disturbed area and which will not extend into sensitive areas in the ground or adjacent to the previously disturbed area.

Public Notice and Participation

The State will provide public notice when a Cat Ex is issued or rescinded. However, no formal public comment period need be provided prior to the Cat Ex becoming effective.

B-3 Set-Asides

Substantial set-aside changes were implemented with the “Water Infrastructure Improvements for the Nation (WIIN) Act passing in December 2016. The Act removed the overmatch (1:1) for the ten percent set-aside and provided calculation options for the four percent set-aside. DDW will comply with all programmatic and administrative conditions as required for the 2019 grant award.

Set-aside funding is used to:

- ✓ Fund established programs
- ✓ Fund continuing growth
- ✓ Fund increasing operating costs
- ✓ And to the extent set-aside funds are available, assist in funding the additional staff needed to implement new Federal rules regarding regulation of drinking water contaminants

The state will not use set-aside funds for those projects or project-related costs that are eligible or explicitly ineligible for assistance from the DWSRF except DDW may use set-aside funds for: 1) project planning on design costs for small systems, and 2) for costs associated with restructuring a system as part of a capacity development strategy.

Set-aside funds have been used on first in first out (FIFO) basis and will continue to be so. Usage is accounted for by set-aside. Unused funds are carried forward to the next fiscal year.

Final reports have been submitted to USEPA for DWSRF capitalization grants through 2015. 2016 and 2017 grant years are fully spent, and the final reports are being prepared. DDW is currently spending 2018 grant year. In anticipation of the 2019 grant year being delayed in being awarded, DDW respectfully requests authorization to receive pre-award ability to cover set-aside expenses for the period of July 1, 2019 through September 30, 2019. The loan funds are also treated on the FIFO basis.

Intended use of set-aside funds

Maintain the staff (FTEs) hired with set-aside funds including benefits, costs allocated as a percent of personal services, and other related costs.

Continue our contract with the Rural Water Association of Utah (RWAU) to implement portions of the expanded operator certification, wellhead protection and capacity development programs. RWAU has also been assisting the DWSRF program with capacity development outreach program.

Table 8 Set-Aside and State match Requests

TABLE 8				
SET-ASIDE AND STATE MATCH REQUESTS				
ACTIVITY				TOTAL
Loan Fund & 20% State Match Requirement	19DA	8,100,000	2,200,800	10,300,800
4% Administrative Set-Aside max =	19DD	440,160	4%	
Plus \$ from prior grant years reserve (see Table 9)		9,840		450,000
2% Small Sys.Tech. Asst. max =	19DE	220,080	2%	
Less \$ which will be added to reserve bank (See Table 9)		(130,080)		90,000
10% State Program Set-Aside max =	19DF			
PWS Supervision		1,025,400	9.3%	
Plus/(less) reserves from prior grants		0	0.0%	
Capacity Development Oversight		15,000	0.1%	
Source Water Protection		60,000	0.5%	
Operator Certification		0	0.0%	
TOTAL State Program Set-Aside		1,100,400	10.0%	1,100,400
15% Local Assistance Set-Aside max=	19DG			
Local Assistance and			0.0%	
Capacity Development Outreach		1,100,400	10.0%	
Source Water Assessment		0	0.0%	
Wellhead Protection		163,200	1.4%	
TOTAL Local Assistance Set-Aside		1,263,600	11.4%	1,263,600
			15.0%	
TOTAL CAPITALIZATION GRANT =		11,004,000	2,200,800	13,204,800

Table 9 Set-Aside Reserves

Table 9			
Set-Aside Reserve after grant year 2019			
Reserves	Beg Balance	grant year 2019	End Balance
4% Administrative Fund	848,760	(9,840)	838,920
2% Small System Tech Assistance	173,480	130,080	303,560
10% State Program	805,000	-	805,000
TOTAL	1,827,240	120,240	1,947,480

Set-aside requests and intended use

Administration set-aside

The calculation for the four percent administrative set-aside in accordance with the 2016 WIIN law, consists of an amount equal to the sum of any state fees collected (i.e. Loan Origination Fees) plus the greatest one of three options: 1. \$400,000, 2. 1/5% of the current fund value if the fund has been audited from an outside agency (DDW's fund is not audited from an outside agency) or 3. Four percent of all grants awarded to the fund under this section for the fiscal year ($\$11,004,000 \times 4\% = \$440,160$).

Of the three options, DDW chooses option three of \$440,160 for the four percent administration set-aside. The administrative set-aside also has reserve available of \$848,760 accumulated from previous grant years (1997-2017) which have been reserved for future use. DDW requests \$9,840 to be added to \$440,160 to equal \$450,000 for the administrative set-aside. The total reserve account will have a balance of \$848,920 in the account for future use (beg reserve balance of \$848,760 less \$9,840) as illustrated on Table 9. DDW anticipates having some carry-over funds available from grant year 2018 to provide adequate funding for fiscal year 2020.

The administration set-aside will fund five to six full-time equivalents (FTEs) positions to operate the program in SFY 2020. The budget estimate will fund salary, benefits, office space, equipment, travel, training, supplies, and an indirect allocation for SFY 2020, currently budgeted at \$545,000. A web based database called "Loan Tracker" has been created in DDW's Web Link (the web-based SDWIS app). The old access database "CASPER" is being fully retired.

State Programs set-aside

The state programs set-aside total amount request is \$1,100,400. DDW is requesting the maximum amount ($10\% \times \$11,004,000$) divided into the sub-categories as listed in Table 8. The sub-categories include PWS Supervision, Capacity Development, and Source Protection. In the past, DDW has requested a subcategory of funding for its Operator Certification Program. DDW has increased the Operator Certification and the Cross Connection fees and is working toward both programs being self-sufficient by fee revenue collected for each program, respectively. Budgeting, disbursements and draws are also accounted for by sub-categories. The total reserve account will have a balance of \$805,000 left in the account for future use.

The WIIN Act of 2016 removed the dollar for dollar match requirement for the 10% set-aside on any grant awarded after December 16, 2016. DDW is in the process of submitting final close-out forms from all grants prior to the WIIN Act. An annual State Appropriation from the State Water Development Security Fund was appropriated of \$990,000+ providing sufficient state match for prior grant years.

PWS Supervision (augmentation) set-aside

DDW is requesting \$1,025,400 from the 2019. Reserve funds are equal to \$805,000, but DDW will not request any reserve funds for the PWSS augmentation set-aside.

The PWS Supervision set-aside is primarily used to support DDW's Engineering Section. Approximately six engineers charge to this set-aside and two other employees for program support. Federal expenditures for SFY 2020 are estimated at \$944,000, an additional amount of approximately \$989,800 appropriated from the state legislature and \$850,000 of the PWSS grant will also be expended for division related activities. The budget estimate will fund salary, benefits, office space, equipment, travel, training, supplies, and an indirect allocation for SFY 2020.

Engineering tasks include water system plans and specification reviews, operating permits, waivers, water treatment plant inspections, witnessing well grouting, and proactive recommendations to help water systems ensure the public receive safe drinking water. DDW's engineers also receive training to keep their skills diverse with new technologies in solving water system issues. Growth impacts in the state combined with the stricter EPA standard levels SDWA amendments and associated State and Federal regulations create a tremendous workload.

Capacity Development Program

DDW is requesting \$15,000 from the 2019 grant for oversight of the capacity development program. The estimated carry-forward to SFY 2020 is \$8,200. The amount budgeted for SFY 2020 is \$19,000. If expenses exceed the grant funds available in SFY 2019, a request to move funds from the PWS Supervision sub-category will be requested.

The State of Utah has statutory authority for a capacity development program (Section 19-4-104 of the Utah SDWA). Time of one FTE, as needed, will oversee and maintain the program. The Division is current with all reports due to the Governor and USEPA. The Division will add the language to encourage the development of technical, managerial, financial and an asset management plans to the Governor's Triennial Report as required in the Amendments in America's Water Infrastructure Act (AWIA) of 2018.

Operator Certification Program

The State has an Operator Certification program that has been mandatory since 1985. Prior to 1997 the program required community water systems serving more than 800 population and any public water systems treating surface water to have a certified operator. The statutory authority to reduce the threshold population from 800 to 25 was enacted by the 1997 Legislature. The Safe Drinking Water Act requires all community and non-transient, non-community water systems and all public water systems that treat surface water to have a certified operator.

USEPA published final Guidance (EPA-816-R-98-006) in July 1998 establishing national policy regarding the implementation of the operator certification related provisions of the SDWA including how EPA would assess State operator certification program for purposes of making withholding decisions.

In 2019, a 50% increase was legislated for various fees in the Operator Certification program. The operator certification program requires an operator to pay a fee to become certified. It is the Division's intention to oversee this program wholly by fees charged to the water systems and/or operators.

The budget estimate will fund salary, benefits, office space, equipment, travel, training, and supplies to run the Operator Certification Program. Expenses connected to the Operator Certification fees are budgeted at \$162,900.

The time of about two FTE's, coordinate and administer the program. The division contracts with the Rural Water Association annually to assist with operator certification training.

Source Protection Administration

The SDWA Amendments of 1996 require each state to maintain a source water quality assessment program for all public water systems. The time of less than one FTE is dedicated to developing, implementing, and coordinating this program.

We are requesting \$60,000 from the 2019 grant for the source water program. An estimated amount of \$15,000 will be available to be carry forward to FY 2020. Estimate expenditures for FY 2020 were budgeted at \$70,000. The budget estimate will fund salary, benefits, office space, equipment, travel, training, supplies, and an indirect allocation for SFY 2020.

Small Systems Technical Assistance

DDW is requesting \$90,000 (\$11,004,000 x 2% less \$130,080 which will be added to the reserve bank on Table 9) for the 2% set-aside. A carry forward balance of approximately \$80,000 will be available for 2019 with estimated expenses of \$177,000. This set-aside is only used to fund our contract with the Rural Water Association of Utah (RWAU) which is primarily assisting public water systems serving 10,000 people or fewer (section 1452(g) (2)) to maintain viable water systems.

DDW created an energy cost saving handbook in 2016 which provided water system operators and managers with multiple strategies to reduce their energy costs. Some water systems have identified energy efficiency improvement opportunities in both operations and infrastructure. RWAU is encouraging all drinking water systems to investigate energy efficiency options to identify cost savings where possible. The small and very small water systems are often unable to take full advantage of such initiatives due to lack of knowledge, lack of money, and/or lack of proper equipment.

RWAU is a critical partner assisting DDW in responding to water system inquiries and taking action to assist water systems to be technically, managerially, and financially sound.

Such assistance includes, but not limited to:

- a. Water rates & fees analysis
- b. Applying for and obtaining funding for projects
- c. Locating and securing consulting engineering services

- d. Developing ordinances, resolutions and by-laws
- e. System security
- f. Preparing management, conservation, financial, capital improvement, sampling, and cross connection control plans
- g. Train system boards and or councils in subjects related to capacity development
- h. Perform Financial/Management audits with water systems as requested by the system or DDW
- i. Encouraging and assisting public water systems listed on the ETT (enforcement targeting tool) with application for financial assistance where such assistance would help the water system return to compliance with drinking water rules
- j. Assisting water systems which have borrowed funds from the Drinking Water Board during the construction and start-up phases of the project

Local Assistance, Capacity Development, Source Water Assessment, Wellhead Protection and Other State Programs (15% set-aside)

We are requesting \$1,263,600 which is approximately 11.4% of the grant total. A carry forward balance of approximately \$370,000 is anticipated for FY 2019, making a total estimated balance available of \$1,633,600 for this set-aside. The FY 2019 budget was estimated at \$1,279,100. It is divided into two sub-categories, local assistance/capacity development outreach and wellhead protection. Budgeting, disbursements, and draws are each accounted for by the two sub-categories separately.

Capacity Development Out-reach/Local Assistance with Public Water Systems Sub-Category

We are requesting \$1,100,400 from the 2019 grant for capacity development, out-reach, local assistance. (10% of 11,004,000 the maximum allowed in one subcategory.) The estimated carry-forward to FY 2020 will be about \$240,000, for a combined amount available of \$1,340,400. The amount budgeted for FY 2020 is \$1,070,000.

Some of the activities DDW employees will provide and charge to this set-aside include the following:

1. Math calculations to determine dosing, volumes, flows and horsepower, etc.
2. Minor repairs on pumps, as well as, knowledge of pump curves, monitory well levels, troubleshooting, hydraulics, motor maintenance and metering, etc.
3. Teach proper techniques for unidirectional flushing of fire hydrants, pipeline maintenance, pressure zones, valve maintenance (exercising and annual maintenance, instrumentation, tank inspections, distribution system and treatment plants.
4. Proper disinfection techniques, and correct handling and use of various disinfection chemicals, properties of chemicals, emergency disinfection techniques, and monitoring of residuals.
5. Safety- proper use of equipment and how to follow proper procedures, MSDS.
6. Security- proper procedures to interact with law enforcement and mitigation.
7. Provide technical training on existing and new rules, proper sampling techniques, proper monitoring, and an understanding of sample results, reporting procedures.

8. Emergency Response- training on the Incident Command System (ICS) and how they would fit into that system. Train systems with the National Incident Management System (NIMS), response protocols, mitigation, setting-up table top exercises, maintaining a plan, flushing and disinfection.
9. Cross Connection Control assistance to help the water system properly assemble, avoid hazards, resolve physical deficiencies during a sanitary survey and follow State guidelines on managing a program.

DDW understands all charges by employees need to have direct interaction with the water systems with some form of training or technical assistance. Rural Water Association of Utah also has some tasks relating to direct interaction with the water systems and has been allocated \$65,000 in their contract for this specific purpose.

Wellhead Protection Sub-Category

DDW is requesting \$163,200 in funding for this category from the 2019 grant. DDW estimates carry forward funds of \$120,000 will be available in fiscal year 2019. Total available funds in FY 2019 should be about \$283,200. The budgeted expenses of \$200,800 for SFY 2020 will cover expenses for salary, benefits, office space, equipment, interactive map upgrades and an indirect allocation. One employee will oversee the implementation and maintenance of GIS activities and will prepare ground water source protection plan updates for the water systems as review is required. This sub-category budget will continue to cover expenses to address a backlog of wellheads that need to be entered and/or updated. Maintenance of the source protection zone geodatabase is an on-going project as new water sources are developed and existing source protection zones are modified. An ongoing nitrate study is also being funded being conducted by the Division of Water Quality.

Attachments

Attorney General Enabling Legislation Opinion Letter for FY2019 base program

Organization Chart

Utah Administrative Code Rule R309-705

The Rule for Projects Receiving Assistance from the Federal DWSRF can be found at the website <http://www.rules.utah.gov/publicat/code/r309/r309-705.htm>

Construction Loan Program information is available at the website http://www.deq.utah.gov/FeesGrants/funds/drinkingwater/federal_srf.htm#loans

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OAG-013-19

May 14, 2019

Marie Owens, Director
Utah Division of Drinking Water
195 North 1950 West
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Salt Lake City, Utah 84114-4830

Re: **Adequacy of State Law Enabling Utah to be Eligible for Federal
Safe Drinking Water Act, 42 U.S.C. 300j-2 et seq., Capitalization Grants**

Dear Ms. Owens:

This letter is in response to your request dated May 13, 2019, for an updated opinion concerning State authority to establish and operate a Drinking Water State Revolving Loan Fund program, as prescribed under the Federal Safe Drinking Water Act, 42 U.S.C. § 300j-2 *et seq.* There have been no significant changes which affect the opinion previously issued on February 5, 2018.

The Utah Legislature has enacted Utah Code Ann. § 19-4-101 *et seq.*, which establish the Utah Division of Drinking Water (“DDW”) and the Utah Drinking Water Board (“Board”). Utah Code Ann. § 19-4-104 and 105 empower the Board with rulemaking authority to meet the requirements of the Federal Safe Drinking Water Act.

In 1983, the Utah Legislature established a restricted account within the General Fund, known as the Water Development Security Account. *See* Utah Code Ann. § 73-10c-5. The Fund was created for the purpose of supporting drinking water projects and wastewater projects in accordance with the terms of credit enhancement agreements. In 1985, the Legislature amended the Water Development Security Account to provide for the use of monies in the account to make loans for drinking water and wastewater projects. *See* Laws of Utah 1985, chapter 123. Therefore, pursuant to that amendment, two accounts exist within the Security Account: (i) one for wastewater projects; and, (ii) one for drinking water projects. In 1997, Senate Bill 75 established a “State Revolving Fund for Drinking Water Projects Subaccount,” as a subaccount in the Drinking Water Security Account.

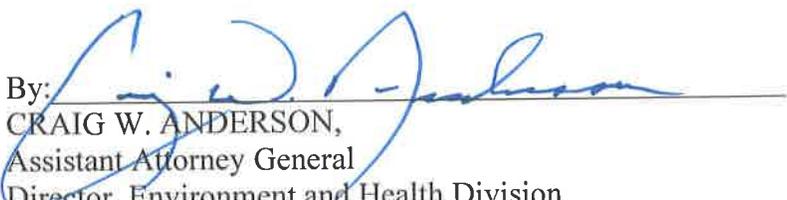
In 2001, the Legislature substituted the language an “enterprise fund” for a “restricted account within General Fund” and substituted “security fund” for “security account” throughout the statute. In 2007, House

Bill 99 (Water Loan Program Amendments) amended the loan and grant programs for water projects administered by the Utah Department of Environmental Quality. The Drinking Water Security Subaccount now consists of four subaccounts: (i) the Drinking Water Loan Program Subaccount; (ii) the State Revolving Fund for Drinking Water Projects Subaccount; (iii) the Hardship Grant Program for Drinking Water Projects Subaccount; and, (iv) the Drinking Water Origination Fee Subaccount. The Revolving Fund for Drinking Water Projects Subaccount consists of: (i) money appropriated to the subaccount by the Legislature; (ii) money received from the Utah Drinking Water Loan Program Subaccount and applied to meet match requirements for federal funds under the Federal Safe Drinking Water Act; (iii) money received from the repayment of loans made by the Board from the State Revolving Fund for Drinking Water Projects Subaccount; (iv) money deposited in the subaccount under any other law; (v) money received under and subject to the restrictions of the Federal Safe Drinking Water Act; and, (vi) all investment income derived from money in the State Revolving Fund for Drinking Water Projects Subaccount. The Drinking Water Origination Fee Subaccount consists of an origination fee paid under § 73-10c-10. In 2010, § 73-10c-10 was amended to allow the Board to establish an origination fee for a federally funded loan. In 2011, House Bill 186 (Utah Code Technical Amendments) made certain technical term (non-substantive) changes.

The Board has promulgated rules for making loans incorporating the requirements of the Federal Safe Drinking Water Act at Utah Admin. Code R309-705. Additionally, the Board is authorized by Utah Code Ann. § 19-4-104(1)(a)(v) and (2)(b) to promulgate rules for the certification of operators and governing capacity development in compliance with Section 1419 and 1420 of the Federal Safe Drinking Water Act.

This office certifies that the capitalization grant application and operating agreement submitted to the Federal Environment Protection Agency for Drinking Water State Revolving Fund capitalization grants are consistent with State law and that the Board and the DDW are authorized to bind themselves to the terms of the capitalization grant agreement. As described above, the Board and the DDW are instrumentalities of the State of Utah that are authorized to: (i) enter into capitalization grant agreements with the Federal Environmental Protection Agency; (ii) accept capitalization grant awards made under Section 1452(a)(1)(A) of the Federal Safe Drinking Water Act; and, (iii) otherwise manage the fund in accordance with the requirements and the objectives of the Federal Safe Drinking Water Act.

Sincerely,
SEAN D. REYES
Utah Attorney General

By: 
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Assistant Attorney General
Director, Environment and Health Division
Counsel to the Utah Drinking Water Board
and the Utah Division of Drinking Water