

community size, and low- to moderate- income data. Please see discussion above on affordability requirements and Section VIII, Criteria and Method for Distribution of Funds.

VIII. CRITERIA AND METHOD FOR DISTRIBUTION OF FUNDS

Historically, WPCSRF funds were allocated on a first-come, first-served basis because the supply of funds exceeded the demand. This allowed for the funding of all the projects as they went into construction. However, due to annual federal requirements for principal forgiveness and green project reserve, it has become important to identify in each IUP which projects will be receiving SRF funds, including principal forgiveness, for the next fiscal year. **See Attachment III for a list of projects expected to receive WPCSRF funds and principal forgiveness in SFY25 from the base capitalization grant. See Attachment III A for a list of projects expected to receive WPCSRF funds and principal forgiveness in SFY25 from the supplemental capitalization grant.** The CWSRF program will target the “Sidney Phase 4 Sludge Disposal” project as an equivalency project for the FFY24 base cap grant and the “Big Sky Canyon Phase 1 Collection system” project as an equivalency project for the FFY24 supplemental cap grant.

The FFY24 Consolidated Appropriations Act through which the base capitalization grant was appropriated and the FFY24 Clean Water SRF federal appropriation provided through BIL requires that at least 10% of the base capitalization grant and 10% of the supplemental capitalization grant must be used to fund green projects as defined by EPA. Projects that qualify for the Green Project Reserve are those that address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities. These projects are identified based upon information provided in the Clean Water Needs Survey that is required for each project that requests funding from the WPCSRF program. Each fiscal year the Resource Development (RD) Bureau housed within the Department of Natural Resources and Conservation requests a \$1-2 million dollar loan that they then administer to Montana farmers and ranchers for the implementation of agricultural best management practices (BMPs); primarily the conversion of flood irrigation operations to sprinkler irrigation systems. This loan to the RD Bureau meets the 10% green project reserve requirements for both the base capitalization grant and the supplemental capitalization grant. Projects that qualify in whole, or in part, for green reserve are identified in Attachment III and Attachment IIIA.

The FFY24 Clean Water SRF federal appropriation is approximately \$1.63 billion, therefore, Montana has the option of awarding between 20 and 40% of its base capitalization grant in the form of principal forgiveness. The WPCSRF program is proposing to award approximately 30% of its FFY24 base cap grant, or \$1,202,847 as principal forgiveness. The Clean Water SRF federal appropriation provided through BIL mandates that 49% of the funds provided through the FY24 supplemental cap grant funding, or \$5,470,360 must be provided as principal forgiveness.

The following factors will be considered in the allocation of principal forgiveness:

The WPCSRF program has historically and will continue to award principal forgiveness (PF) primarily through an affordability assessment for those projects deemed ready to proceed to construction in SFY25. For a project to be considered eligible for PF, the project must be consistent with the definition of “treatment works” as set forth in Section 212 of the CWA.

As required by federal law, three factors will continue to be used to arrive at a composite affordability score: income, the local unemployment rate, and local population trends. The BIL funding explicitly seeks to ensure that small or disadvantaged communities have better access to SRF funds to improve their wastewater infrastructure. It was felt by the WPCSRF program that the best way to ensure that that objective was achieved was to consider community size, and low- and moderate-income data in the affordability criteria analysis. Each criterion is described in more detail below.

Monthly Median Household Income (mMHI)

The WPCSRF program has chosen to incorporate income into the composite affordability score through comparison of the user rate per monthly median household income factor for each community. The WPCSRF program feels that this factor establishes a level playing field between different communities with regards to varied user rates and incomes. The idea is that communities with higher monthly median household incomes can afford higher rates than those with lower monthly median household incomes and those communities already paying high user rates should be given more points when considering which communities should benefit from AS. For example, if a community has a user rate of \$32.67 and a mMHI of \$3,192 the user rate/mMHI ratio would be 1.02 % and the composite affordability score would be increased by 1.02 points.

Unemployment

A local unemployment rate greater than 150% of the current state average unemployment rate (3.8%) will be added to the affordability criteria score. For example, if the unemployment rate for a community is 8.3%, that rate would be approximately 2.6 percentage points higher than 150% of the average state unemployment rate. So, the composite affordability score would be increased by 2.6 points.

Population Trends

Population growth rates of zero to 1.5% per year are viewed by the WPCSRF program as relatively normal based on many years of reviewing municipal wastewater planning documents. Therefore, growth rates above 1.5%/year or negative growth rates may pose exceptional affordability issues. Very high growth rates may put a higher financial burden on existing residents to accommodate the building of large treatment projects relative to the existing population. Decreasing growth rates leave fewer people to shoulder the financial burden of regulatory compliance. For a population growth factor, the WPCSRF proposes a method like the unemployment rate methodology and will award points if the growth rate is either above 1.5%/year or less than -0.25%/year. For example, if a community has a growth rate of -0.4%/year, this is 0.15 percentage points less than -0.25%/year. The composite affordability score would be increased by 0.15.

Community Size

A priority of the BIL is to ensure that small communities (population < 10,000) benefit equitably from the SRF investment in water infrastructure. To achieve this goal the SRF program used census data from the Montana Census and Economic Information Center to

calculate the percentage below (positive number) or above (negative number) the baseline population of 10,000. For example, if a community has a population of 7,300, this is equivalent to a 0.27 percentage change whereas a community with a population of 14,900 would have a -0.49 percentage change. These percentages will increase or decrease the community's composite affordability score depending on the size of the community.

Disadvantaged Communities

Another priority of the BIL is to ensure that disadvantaged communities benefit equitably from the SRF investment in water infrastructure. To identify economically disadvantaged communities the WPCSRF program considered low- and moderate- income (LMI) data. This information is available for all incorporated city/towns and census designated places from the Montana Department of Commerce's Community Development Division and is based on the U.S. Census Bureau's American Communities Survey data set 2015-2019. The LMI percent is calculated by U.S. Housing and Urban Development (HUD) using data from the U.S. Census Bureau's Decennial Census. LMI families are defined as those families whose income does not exceed 80% of the county median income for the previous year or 80% of the median income of the entire non-metropolitan area of the State of Montana, whichever is higher. For example, a community with an LMI of 43.5% would receive 0.435 points to their overall composite affordability score.

Based on these criteria, communities are ranked based on their overall composite affordability score and AS awarded in the form of principal forgiveness until those funds are fully awarded. If AS is still available after all qualifying communities (i.e., treatment works as defined in Section 212 of the CWA) have been award AS, then municipalities that do not meet the affordability criteria may also be given consideration and provided AS to benefit individual rate payers in the residential user rate class.

It is important to keep in mind that the composite affordability score is just a relative comparison of a community's ability to "afford" the project based on the criteria considered and is not indicative of the importance or need for any project.

1. Consideration will be given to the effectiveness of the principal forgiveness in reducing user rates for each project. If the infusion of principal forgiveness funds into a project result in a similar reduction of grant funds from another funding agency, with the result being no or limited decrease in user rates, the WPCSRF program may instead allocate the principal forgiveness to another project where final user rates will, in fact, be reduced.
2. Generally, no project shall be awarded principal forgiveness more than once. However, in some circumstances if project costs (after bidding) are considerably higher than anticipated, that project may be awarded additional principal forgiveness to help offset the higher costs provided there is still an open capitalization grant that has not fully allocated the maximum amount of AS allowed for under its grant conditions. Projects receiving additional principal forgiveness must be at or above the target rate for wastewater only (0.9% of the mMHI).
3. To spread the funds to more than one project, it is proposed that the principal forgiveness will be capped at \$850,000 or 49% of the long-term SRF loan amount, whichever is less for the base cap grant; and at \$850,000 or 49% of the long-term SRF loan amount, whichever is

less for the supplemental cap grant. These caps and percentages may change slightly depending on the projects selected in the final IUP.

4. Projects seeking short-term financing will not be given principal forgiveness; only long-term loans will be eligible for additional subsidy. Principal forgiveness will not be given for refinancing of projects.
5. Projects receiving principal forgiveness will be allowed to receive extended loan terms of up to 30 years provided the loan term does not exceed the useful life of the improvements.
6. If a community determines they no longer need to utilize SRF funds, any principal forgiveness awarded to that community will be awarded to the next highest rated project based on the criteria described above.

The proposed list of projects that will receive WPCSRF funds in SFY25 is included as Attachment III and Attachment IIIA.

Loan terms and interest rates will be determined in accordance with the Administrative Rules adopted by the DNRC. The WPCSRF program may choose to limit the maximum amount of any loan if the demand for loan funds exceeds the availability of funds. Interest rates must be established to generate sufficient revenues to allow the State to make the principal and interest payments on general obligation bonds sold to generate the State match or meet project demand and to ensure the program is operated in perpetuity. The ability to repay the loan will also be considered when establishing loan terms. The types of financial assistance provided by the WPCSRF will initially be based on the applicant's request. It is anticipated that most of the assistance will be provided in the form of direct loans (more precisely, the purchase of community-issued bonds by the WPCSRF program).

While the Base Program Funding Status for the Montana WPCSRF Program (Attachment II) shows a surplus of funds in the program, it should be noted that the "new loan amount" listed is based on estimated loan amounts many of which will likely need to be increased due to the current bidding climate and inflation which have resulted in higher costs for recently bid projects. A portion of this surplus (which includes non-federal dollars) will also be needed to fund the shortfall that is shown on Attachments II A and III A (projects funded with the supplemental cap grant). EPA should also keep in mind that the infusion of American Rescue Plan Act (ARPA) grant funds into Montana wastewater infrastructure projects (\$168 million) has resulted in some projects no longer needing or reducing the amount of SRF funds needed in their projects. The WPCSRF program has historically never had a problem fully obligating its funds and we expect that will be the case this year as well.

IX. EXTENDED FINANCING

To provide additional assistance to communities, the WPCSRF program will offer extended finance terms to qualifying projects. The extended loan terms allow communities up to 30 years to repay the loan. Loan terms cannot extend past the useful life of the improvements to be funded; therefore, it is expected that eligible projects will generally be new collection system piping and appurtenances. However, in certain situations, the WPCSRF program may consider extended financing for some treatment facilities if the replacement costs for the shorter-term

assets (pumps, blowers, controls, lagoon liners, etc.) are set aside by the community on an annual basis to ensure continuity of treatment or use throughout the term of the loan. The WPCSRF program reserves the right to limit extended term financing at any time to ensure the perpetuity of the fund.

X. PUBLIC COMMENT, AMENDING IUP, STATE FINANCIAL COMMITMENT

Public Review and Comment – One public meeting was held on May 6, 2024, in Helena to discuss the SFY25 PPL and to allow public comment on the draft IUP. Public notice concerning the PPL and IUP was posted in major newspapers across the state, and the notice and draft IUP was published on DEQ's website. There was a 30-day public comment period for the public to review and comment on the draft IUP. That comment period ended May 28, 2024. No comments were received regarding the draft IUP.

Amending the IUP - A simple addition to the PPL and IUP will be allowed after notification has been provided to affected projects (if any) already on the list. If a project scheduled to receive loan assistance within the year is displaced by the addition of a new project, a formal public hearing, if requested, will be held to allow comment on the modifications to the PPL and IUP.

State Financial Commitment - The 1989 Montana Legislature passed House Bill (HB) 601, entitled the Wastewater Treatment Revolving Fund Act, which was subsequently signed into law by the Governor. The Act created the new program, established administrative procedures and allowed for the sale of state general obligation bonds in an amount not to exceed ten million dollars. The 1995 Montana Legislature passed HB 493, which was subsequently signed into law by the Governor. Among other things, the Act allowed for the sale of state general obligation bonds in an amount not to exceed an additional five million dollars. The 1999 Montana Legislature passed HB 110, which gives the WPCSRF an additional fifteen million dollars in general obligation-bonding authority. The 2003 Montana legislature passed HB 46, which gives the WPCSRF an additional ten million dollars in general obligation-bonding authority. The combined bonding authority provided by these four bills furnishes the WPCSRF with forty million dollars in state general obligation bond authority, which provides enough funds to match all federal appropriations (1989-2023) that have been awarded to the program to date, as well as excess bond authority to match potential future federal appropriations. In 2005 with HB 142, the Legislative session allowed the bond authority to be up to \$40 million in outstanding bonds.

The State held its first bond sale in 1991. In June of 1996, Montana held its second and third bond sales to provide State match funds for projects scheduled to proceed in FFY 1997. In March of 1998, a fourth bond sale was held to provide State match for projects scheduled to proceed in FFY 1998 and 1999. In March of 2000, a fifth bond sale was held to provide State match for projects scheduled to proceed in FFY 2000 and 2001. In June 2001, a sixth bond sale was held to provide a match for projects scheduled to proceed in 2002. In June of 2003, a sixth bond sale was held to provide match for projects projected to proceed in 2003. In April of 2004, a seventh bond sale was held to provide match for projects projected to proceed in 2004. An eighth bond sale was held in April of 2005, to provide state match for proposed projects to proceed in 2005. The bond authorization includes notes to be issued instead of bonds. Note sales were held in October 2007, for \$500,000, in April 2008, for \$400,000, and in March 2009, for \$2,000,000. A bond sale