

**COMMONWEALTH OF PENNSYLVANIA  
PA INFRASTRUCTURE INVESTMENT AUTHORITY  
AND  
PA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**DRINKING WATER STATE REVOLVING FUND INTENDED USE PLAN**

**ASSOCIATED WITH FFY2022 FEDERAL APPROPRIATIONS:**

**SFY22-23 DWSRF CAPITALIZATION GRANT – BASE**

**AND**

**BIPARTISAN INFRASTRUCTURE LAW:**

**SFY22-23 DWSRF CAPITALIZATION GRANT – GENERAL SUPPLEMENTAL**

**SFY22-23 LEAD SERVICE LINE REPLACEMENT GRANT**

**SFY22-23 EMERGING CONTAMINANTS GRANT**

*Final  
August 2022*

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***Attachments:***

1. Ranking Framework for PENNVEST Drinking Water Projects
2. Capability Enhancement TMF Assessment Documentation
3. Work Plan for Use of Set-aside Funds
4. Project Priority List
5. State Environmental Review Process (SERP) DWSRF
6. Project Application, Sources and Uses Charts

## **Drinking Water State Revolving Fund Intended Use Plan SFY22-23 Multiple Federal Grants**

### **I. Introduction**

When discussing the Intended Use Plan and the federal grants to which it applies the following acronyms will be used:

Safe Drinking Water Act (**SDWA**)

Infrastructure Investment and Jobs Act (**IIJA**)

Bipartisan Infrastructure Law (**BIL**)

Build America Buy America Provisions of IIJA (**BABA Act**)

Federal Fiscal Year October 1, 2021 – September 30, 2022 (**FFY2022**)

State Fiscal Year July 1, 2022 – June 30, 2023 (**SFY22-23**)

Intended Use Plan (**IUP**)

Drinking Water State Revolving Fund (**DWSRF**)

DWSRF Capitalization Grant – Base (**Base Grant**)

DWSRF Capitalization Grant – BIL Supplemental (**General Supplemental Grant**)

BIL – Lead Service Line (LSL) Replacement Grant (**LSL Replacement Grant**)

BIL – Emerging Contaminants Grant (**Emerging Contaminants Grant**)

Pennsylvania herewith submits its IUP for use of all DWSRF Base Grant funds awarded or available through the FFY2022 federal appropriation, under the SDWA including appropriate state match funds and principal/interest/investment income. In addition, this IUP also applies to the FFY2022 BIL Grants – General Supplemental, LSL Replacement, and Emerging Contaminants and the appropriate state match funds.

Attached to this IUP is the FFY2022 proposed workplan for the use of the set-aside funds as provided for in the 1996 Amendments to the SDWA. This includes: 2% for Technical Assistance to Small Systems, 10% for Assistance to State Programs, and the 15% for Other Authorized Activities. This workplan captures how the state will utilize remaining and reserved set-aside funds from previously awarded DWSRF Base Grant awards. In addition, this proposed workplan includes the use of the 2%, 10%, and 15% Set-asides funds for BIL Grants – General Supplemental, LSL Replacement, and Emerging Contaminants.

The DWSRF program is an essential component of the Commonwealth's efforts to protect and improve the quality of life of the citizens of Pennsylvania by helping to protect public health and the water environment, promote community revitalization, and support economic development. To this end, PENNVEST and the Department of Environmental Protection (DEP) work closely together and with other state and federal agencies to identify opportunities for funding specific projects and to coordinate funding efforts. These efforts are instrumental in achieving the requirements of the SDWA and the BIL. Planned usage of these funds can be found in Table 1:

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<b>Table 1: Planned Usage of FFY2022 PA DWSRF Base Appropriation and BIL Appropriations for Pennsylvania</b>						
	Base Grant	BIL General Supplemental	BIL LSL Replacement	BIL Emerging Contaminants	BIL Total	BIL Plus Base Total
2022 Appropriation	\$21,577,000	\$55,403,000	\$87,296,000	\$23,264,000	\$165,963,000	187,540,000
State Match	\$4,315,400	\$5,540,300	\$0	\$0	\$5,540,300	9,855,700
<b>Total</b>	<b>\$25,892,400</b>	<b>\$60,943,300</b>	<b>\$87,296,000</b>	<b>\$23,264,000</b>	<b>\$171,503,300</b>	<b>197,395,700</b>
Available Set-asides						
4%	\$863,080	\$2,216,120	\$3,491,840	\$930,560	\$6,638,520	\$7,501,600
2%	\$431,540	\$1,108,060	\$1,745,920	\$465,280	\$3,319,260	\$3,750,800
10%	\$2,157,700	\$5,540,300	\$8,729,600	\$2,326,400	\$16,596,300	\$18,754,000
15%	\$3,236,550	\$8,310,450	\$13,094,400	\$3,489,600	\$24,894,450	\$28,131,000
<b>Total</b>	<b>\$6,688,870</b>	<b>\$17,174,930</b>	<b>\$27,061,760</b>	<b>\$7,211,840</b>	<b>\$51,448,530</b>	<b>\$58,137,400</b>
Utilized Set-asides						
4%	\$863,080	\$2,216,120	\$3,491,840	\$930,560	\$6,638,520	\$7,501,600
2%	\$431,540	\$1,108,060	\$1,745,920	\$465,280	\$3,319,260	\$3,750,800
10%	\$2,157,700	\$1,000,000	\$0	\$0	\$1,000,000	\$3,157,700
15%	\$3,236,550	\$0	\$0	\$0	\$0	\$3,236,550
<b>Utilized Set-asides Total</b>	<b>\$6,688,870</b>	<b>\$4,324,180</b>	<b>\$5,237,760</b>	<b>\$1,395,840</b>	<b>\$10,957,780</b>	<b>\$17,646,650</b>
Capital for Projects						
69% of 2022 Appropriation	\$14,888,130	\$38,228,070	\$60,234,240	\$16,052,160	\$114,514,470	\$129,402,600
State Match	\$4,315,400	\$5,540,300	\$0	\$0	\$5,540,300	\$9,855,700
4%	\$0	\$0	\$0	\$0	\$0	\$0
2%	\$0	\$0	\$0	\$0	\$0	\$0
10%	\$0	\$4,540,300	\$8,729,600	\$2,326,400	\$15,596,300	\$15,596,300
15%	\$0	\$8,310,450	\$13,094,400	\$3,489,600	\$24,894,450	\$24,894,450
<b>Projects Total</b>	<b>\$19,203,530</b>	<b>\$56,619,120</b>	<b>\$82,058,240</b>	<b>\$21,868,160</b>	<b>\$160,545,520</b>	<b>\$179,749,050</b>
Additional Subsidy	14% Congressional Mandatory	49%	49%	100% (minus set-asides taken)		
A	\$3,020,780	\$27,147,470	\$42,775,040	\$21,868,160		
B	\$2,589,240					
C	\$7,551,950					
Range	(A+B) to C					
<b>Additional Subsidy Total</b>	<b>\$5,610,020</b>	<b>\$27,147,470</b>	<b>\$42,775,040</b>	<b>\$21,868,160</b>	<b>\$91,790,670</b>	<b>\$97,400,690</b>

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**II. Project Funding**

Under this SFY22-23 IUP Pennsylvania intends to show it has enough projects to apply for full allotment of each grant – Base, General Supplemental, LSL Replacement, and Emerging Contaminants. Please see Attachment 4 and Attachment 6 for details.

In addition, Pennsylvania continues to reserve its authority to apply remaining 2%, 4% and 10% set-asides from prior Base Grants to future capitalization grants. A summary of banked and unbanked set-asides by federal grant appropriation year is as follows:

Table 2: Banked and Unbanked Set-asides by Federal Grant Appropriation Year			
FFY Grant Appropriation	Set-aside Fund		
	2% - Technical Assistance	4% - Administrative	10% - Assistance to State Programs
2005	Added to FY08 Application	-	\$1,918,100
2006	Added to FY15 Application	-	Added to FY15 Application
2007	\$554,380	-	\$2,771,900
2011	\$8,800	\$17,600	-
2012	\$525,940	\$1,051,880	-
2013	-	\$986,920	
2014	-	-	\$459,886
Total:	\$1,089,120	\$2,056,400	\$5,149,886

Pennsylvania also reserves its authority to bank the 2%, 4% and 10% set-asides from future BIL - General Supplemental and LSL Replacement Grants.

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**III. Short-Term and Long-Term Goals of the DWSRF Program in Pennsylvania**

The mission of PENNVEST and the Program is to protect the quality of life for Pennsylvania residents by providing financing for water-related facilities and other improvement endeavors that provide for a clean, safe, and healthful environment, support economic development and community revitalization. To accomplish this, PENNVEST has established the following short-term and long-term goals.

**A. Short-Term Goals**

1. Achieve a 95.6 percent fund utilization rate (cumulative loan agreements to the cumulative funds available for projects) for SFY 2022.
2. Improve the coordination of DWSRF financial assistance, planning, permitting, and enforcement activities among DEP, PENNVEST and other agencies, including the Public Utility Commission.
3. Continue outreach efforts in person and virtually to systems across the Commonwealth. This outreach is structured to inform systems of the availability of funds, the application procedures, and federal requirements.
4. Expand outreach to provide technical assistance to communities, with a focus on underserved areas to help determine possible projects and feed the pipeline of future construction projects.
5. Continue to ensure compliance with federal requirements related to the Disadvantaged Business Enterprise (DBE) and Davis-Bacon wage rate requirements as well as the American Iron and Steel provision.
6. Ensure compliance with the BABA Act where applicable.
7. Finalize revised Chapter 963 PENNVEST regulations and eliminate Chapters 961 and 965.
8. Implement a federal trust indenture that allows for the issuance of revenue bonds, commercial paper, and implementation of a loan/bond guarantee program. It will be cross collateralized with the CWSRF.
9. Evaluate fund allocation to the DWSRF from the CWSRF eligibilities under the BIL and make the necessary modification for effective implementation.
10. Explore options to provide necessary security for marginal or at-risk loan recipients.

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**B. Long-Term Goals**

1. PENNVEST would like to have all public water systems in Pennsylvania achieve compliance with drinking water standards through coordination and integration with the state Public Water System Supervision Program. Based on the 2015 Drinking Water Infrastructure Needs Survey and Assessment (DWINSA), Pennsylvania needs for public water systems are currently estimated at \$16.772 billion. Eligibility for DWSRF funds will allow many drinking water systems to provide improved drinking water quality and service to existing customers by correcting problems with source water quality and quantity, treatment, storage, and distribution. Emphasis will be placed on projects designed to correct deficiencies that pose a threat to public health.
2. To administer the DWSRF in issuing loans, loan guarantees, or insurance to applicants, at fees commensurate with risk, such that the revolving nature of the DWSRF is assured in perpetuity.
3. To assist communities with financial difficulties in meeting required drinking water standards by providing, without replacing other funds reasonably available, the type and amount of assistance necessary to make the project affordable, consistent with the long-term health of the DWSRF.
4. To support and implement infrastructure sustainability initiatives to protect public health and the environment in accordance with “EPA’s Clean Water and Drinking Water Infrastructure Sustainability Policy” dated October 1, 2010.
5. To ensure the technical integrity of the DWSRF through adequate and effective program management and project planning, design, and construction management.
6. To ensure the administrative integrity of the DWSRF by maintaining a data management system to track and monitor all DWSRF project and program information and implementing proper accounting, audit, and fiscal procedures that conform with generally accepted government accounting standards.
7. To maintain the DWSRF Project Benefits System (PBS) and DW National Information Management System (DW NIMS) and to report data timely and accurately when entering the information into the Federal Funding and Transparency Act (FFATA) information system.

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**IV. Allocation of Funds**

**A. Criteria and Method Used for Distributing Funds**

The following approach was used to develop Pennsylvania's proposed distribution of its funding:

1. Analysis of the type of communities served and financial assistance needed;
2. Identification of the sources and spending limits of funds;
3. Development of a payment schedule which provides for making timely binding commitments to the projects selected for DWSRF assistance; and
4. Development of a disbursement schedule to pay the project costs as incurred.

***Bypass Procedures***

If projects identified for funding on the IUP list are unable to proceed, they will be bypassed, and other projects from the comprehensive priority list will be funded, based on, among others, criteria identified in Section 10(b) of Act 16, and Section 963.9 of the PENNVEST regulations and readiness to proceed, as well as emergency needs for funding.

A project may be bypassed if PENNVEST determines that funding the project from the DWSRF will supplant other funds available to finance all, or a portion of the total costs of a project; or only a portion of the amount requested when the applicant can, based upon its ability to pay, obtain other affordable financing for the remainder of the project.

A project may also be bypassed for funding when another project, that was ranked lower on the Project Priority List (PPL) based on preliminary information or that is added to the PPL, subsequently moves ahead of it based upon new or revised ranking information.

The current PPL (Attachment 4) may show bypassed projects. Bypassed projects are (1) those that will be funded from other sources (e.g. state funded projects), to maximize effective use of the federal funds, and (2) those that have been given a preliminary priority rating but have not yet submitted applications for funding. It should also be noted that there may be projects that have submitted applications for funding but have not yet obtained the necessary permits and approvals and have not yet been given a priority rating. Projects that have not been placed on the IUP and/or PPL lists because there is not yet a cost estimate or priority rating available will be subject to the same eligibility and funding considerations as other projects that are listed.

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### **Types of Projects to be Funded and Financing Rates**

#### ***Project Development***

Each project is reviewed by the regional DEP staff for cost-effectiveness, including the sizing of proposed facilities. Approved projects must be designed to meet only existing needs and future needs based on reasonably expected growth. Where project cost estimates include excess capacity for service beyond normal growth, project approval is based solely on that portion of the project needed to eliminate the public health or compliance concerns for the existing and reasonably expected future customers. Although the project applicant may receive a DEP permit to construct whatever size facility it deems appropriate and which meets DEP design standards, the awarding of PENNVEST DWSRF funding is limited to those costs which meet these criteria.

Where a project includes fire hydrants, these are in all cases a cost-effective addition, which is incidental to the project purpose.

All DWSRF projects are ranked and funded based upon the rating criteria agreed upon by Pennsylvania and EPA in Attachment 1. Some projects may obtain an updated rating based upon information provided by the project sponsor at the time of application. Pennsylvania has state funds that may be used for drinking water projects as well. If a project is included on the original IUP as DWSRF-eligible, and the review and ranking process concludes that it is not DWSRF-eligible, it will be bypassed and potentially funded through non-DWSRF funding sources.

Other DWSRF-eligible and ranked projects would move onto the IUP to fill any resulting gaps. A brief description of each project on the IUP list is included following the list.

#### ***IUP and PPL Amendment Process***

As part of the DWSRF Annual Report, DEP/PENNVEST will submit to EPA one PPL and one IUP/fundable list of all projects that have been approved for funding during the prior year for EPA's review and approval. This post approval amendment process will allow for the multiple PENNVEST board meetings and amendments throughout the year and is based on program operational experience that has been developed over the years. Additionally, a brief description of the environmental or public health concerns and descriptions of all new projects will be included. EPA will review and approve these revisions as part of its annual review process. Should a project be approved by PENNVEST and included on the IUP/PPL that subsequently is found to not be an eligible project, it will be removed from the fund and any funds that have been expended will be reimbursed to the fund.

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### ***Drinking Water System Projects***

The PPL submitted annually as part of the DWSRF Capitalization Grant application, as well as the new BIL – General Supplemental, LSL Replacement, and Emerging Contaminants grants, serves as both a fundable list and comprehensive list. It contains projects currently being considered for funding as well as those previously considered for funding over the past twelve to eighteen months. It contains enough eligible projects for full allotment of the Base Grant as well as the General Supplemental Grant and the LSL Replacement Grant. The PPL also contains enough projects for the full allotment of the DWSRF Emerging Contaminants Grant and, with a 100% transfer from the CWSRF Program, enough projects to cover the full allotment of the CWSRF Emerging Contaminants Grant provided through BIL.

Projects appearing on the IUP list and the FFY2022 PPL were ranked in accordance with the criteria noted herein. However, some ratings have not been finalized and may be modified during further review prior to project funding.

The type and amount of financial assistance was determined for each project. The sources and spending limits have been identified and the SRF funds have been allocated accordingly.

### ***Green Infrastructure Projects***

There is no minimum requirement of funding to be reserved for allocation to “Green Infrastructure” projects, as defined by EPA to include the following categories:

1. Water efficiency
2. Energy efficiency
3. Site-specific practices that mitigate stormwater at drinking water facilities
4. Environmentally innovative

However, Pennsylvania recognizes the importance of these types of projects and will continue to promote them. The Project Priority List (Attachment 4) identifies which projects are “green,” and which category the project primarily addresses. Projects that are “green” will be further identified in the Project Benefits Reporting (PBR) database.

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### *Additional Subsidies*

Pennsylvania has a very large number of very small systems that may not have the necessary resources upfront to go through the application requirements necessary to apply for financial assistance from the DWSRF. Recognizing the importance of this funding to these small systems, Pennsylvania will continue the following outreach activities to further market the DWSRF program and to assist small systems with the application requirements for DWSRF funding:

1. The Capability Enhancement Facilitators will continue to implement the Professional Engineering Services Program funded by the 2% - Technical Assistance to Small Systems DWSRF set-aside to provide small systems with the necessary engineering, project design, permitting and PENNVEST application development expertise needed to address infrastructure improvements needed at the system. See Attachment 2.
2. The Capability Enhancement Facilitators will attend the PENNVEST planning consultation meetings for DWSRF funding. These meetings are the first step in the development of a project for DWSRF funding. Using the Technical, Managerial, and Financial (TMF) Assessment protocols in Attachment 2, these facilitators can aid small systems by determining whether systems meet the eligibility requirements for TMF capability prior to the system applying for DWSRF funding. They will also assist systems with addressing their capability weaknesses so that they may become eligible for DWSRF funding. However, the water system will need to obtain the services of a consulting engineer or DEP's Professional Engineering Services program to assist with the development of the application. The Capability Enhancement Facilitator's attendance at the planning consultation meeting is not mandatory when the Capability Enhancement Facilitator can establish that the water system meets the eligibility requirements for TMF capability in advance of the planning consultation meeting. In this situation, the Capability Enhancement Facilitator will evaluate the water system, complete the PENNVEST Capability Approval Sheet and provide it to the DEP and PENNVEST staff involved with the proposed PENNVEST project in advance of the planning consultation meeting. See Attachment 2.
3. DEP's Outreach Assistance Provider Program will help small water systems address their capability weaknesses, so they can meet the federal requirements and eligibility criteria for DWSRF funding (Attachment 2).
4. PENNVEST and DEP will collaborate with water industry associations to inform the regulated community about funding criteria for disadvantaged communities and green projects through the development of workshops, newsletter articles, fact sheets, and webinars.
5. Funding of a third-party entity to implement outreach targeted to underserved and/or environmental justice areas to aid in determination of public health or environmental problems, then help develop realistic paths to result in a resolution.

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6. To the extent that demand for principal forgiveness is influenced by the roll- out schedule for new regulations, DEP expects an increase in demand for small water system infrastructure funding as these systems are required to comply with the Long Term 2 Enhanced Surface Water Treatment Rule, Stage 2 Disinfectants and Disinfection Byproducts Rule, Disinfection Requirements Rule, General Update to PA Code Chapter 109, and the Revised Lead and Copper Rule. Systems may also need to comply with the proposed PFAS MCL. The additional subsidies that can be used by these small systems from the DWSRF will be critical in meeting these compliance requirements.

### ***Financing Rates***

The Pennsylvania DWSRF loan program is required by state law to make loans with a minimum interest rate of one percent. This requirement ensures the growth of the DWSRF fund in future years.

### **B. EPA Sustainability Policy**

Pennsylvania is committed to promoting the long-term sustainability of its drinking water systems while protecting public health, water quality, and the environment. In order to further promote elements of EPA’s Policy, PENNVEST has incorporated the following elements into the DWSRF Program:

1. Economy of Scale – Improving the Economy of Scale helps improve water systems’ financial and managerial ability to become a sustainable system. This also improves the buying power of the system and helps it operate more efficiently. This concept includes:
  - a) Looping multiple small water systems together to form one larger and more sustainable water system
  - b) Upsizing or extending service of a capable water system to eliminate a distressed water system
  - c) Upsizing or extending service of a capable water system to serve an unserved area that does not have water that meets state and federal Safe Drinking Water Standards
2. Fix-it-first approach - The “Fix-it-first” concept is an important feature of the DWSRF program. This includes:
  - a) Replacing existing infrastructure
  - b) Augmenting infrastructure capacity to meet the needs of currently served areas
  - c) Repairing or replacing existing drinking water systems
3. Cluster systems – Cluster systems address localized individual home drinking water needs by avoiding long service line installations through undeveloped land. This also includes replacing antiquated and ineffective technology with more

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efficient technology that improves water quantity and quality.

4. Asset Management – To promote the development and implementation of an asset management plan to ensure the long-term operation and maintenance of infrastructure constructed using PENNVEST funds, PENNVEST will pay up to \$25,000 for the development of an asset management plan as part of any drinking water system project.
5. Project Ranking Criteria (Attachment 1) - The Drinking Water Project Ranking Framework promotes the implementation of sustainability principles.
6. Alternatives Analysis - The operation and maintenance of a surface water treatment plant can be costly for a small water system. Eliminating a surface water source and replacing it with a protected groundwater source would reduce the long-term operation and maintenance costs for the water system. It could also reduce the environmental burden placed on the aquatic community in situations where permit specified by-pass requirements on the surface water source are not being met.

### **V. Financial Management**

#### **A. Source of State Match**

State Match will come from the State Fund loan repayments, General Obligation (GO) bond proceeds or State Match Revenue bonds.

#### **B. Fee Income**

Currently, PENNVEST does not charge fees.

#### **C. Program Administration**

For the Base Grant, BIL General Supplemental Grant, BIL LSL Replacement Grant, and the DWSRF BIL Emerging Contaminants Grant Pennsylvania intends to use 4% of each grant for program administration as illustrated in Table 1.

Section II of this IUP identifies the set-aside amounts to be utilized for DEP program support. This includes use of the FFY2022 2% - Technical Assistance to Small Systems, the 10% - Support for State Programs and the 15% - Other Authorized Activities program support functions for Base, General Supplemental, LSL Replacement, and Emerging Contaminants Grants. See Table 1 for fund use.

#### **D. Cash Draws**

PENNVEST will draw state funds first before drawing federal funds.

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### **E. Transfer of Funds**

Pennsylvania continues to reserve the authority to transfer funds between the DWSRF and CWSRF using the Base Grant at some time in the future, up to the maximum of 33% of the cumulative capitalization grants awarded. Pennsylvania also reserves the authority to transfer funds between the DWSRF and CWSRF using the BIL General Supplemental Grant. A 100% transfer of the CWSRF BIL Emerging Contaminants Grant is currently necessary for Pennsylvania to receive full allotment of this Grant. Pennsylvania reserves the authority to transfer some or all of these funds back to the CWSRF program at some time in the future, if necessary.

### **F. Estimated Sources and Uses**

When discussing the sources (funds) and uses (projects) it is important to keep in mind that this is a work plan. Eligible projects have been identified to demonstrate Pennsylvania's ability to spend all the source funds as a requirement for grant award. However, lack of identification on a draft IUP does not preclude one from future funding consideration. PENNVEST reviews and approves project funding on a quarterly basis.

The 1996 Amendments to the Federal Safe Drinking Water Act, in setting project requirements, established that certain amounts of DWSRF funds must be used to meet various requirement limits. These limits were calculated before any allocations were made to projects.

The project funding sources are identified in Table 1 while the uses are identified in the PPL. Besides the FFY2022 Base, General Supplemental, LSL Replacement, and Emerging Contaminants Grants, including the required state matching funds, other sources exist. These include bond proceeds and repayments the uses of which are also the projects on the PPL (Attachment 4). More details can also be found in the Sources and Uses Charts (Attachment 6).

### **G. Financial Management Strategies**

PENNVEST has established a Federal Trust Indenture to cover the DWSRF disbursements to the funding recipients more quickly than going through Treasury. Included in the indenture is the authority to issue commercial paper (CP), revenue bonds, and guarantees. The intent is to pay down the CP balance with a draw on the DWSRF program funds and state match when the capitalization grants are awarded, as well as the use of recycled loan repayments and issuance of revenue bonds. PENNVEST may opt to use State Match revenue bonds for the State Match portion. If PENNVEST decides to do this, documents will be provided to EPA for review as they are drafted.

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### ***Rationale for Providing Different Types of Assistance and Terms***

Pennsylvania's financial assistance policy is based upon the communities' ability to repay loans. PENNVEST will charge interest on all DWSRF loans in accordance with Section 963.15 of the PENNVEST regulations described in the following:

1. The minimum interest rate allowable for any loan is one percent. The maximum interest rates are determined by comparing the unemployment rate of the county in which the project is located to the statewide average unemployment rate. The figures used for unemployment rate comparison are the rates from the previous calendar year as reported by the Pennsylvania Department of Labor and Industry. Projects that serve multiple counties use the highest county unemployment rate in the calculations. Projects that are located within an area that has a separate unemployment rate monitored and reported by the Pennsylvania Department of Labor use the unemployment rate for that area (municipality) in the calculations to determine financial assistance. If the county unemployment rate exceeds the statewide average by 40 percent or more, the maximum interest rate allowable is one percent for the first five years of the term and 25 percent of the interest rate the Commonwealth must pay for bonds it has issued to finance the program for the remainder of the term.
2. For projects located in counties where the unemployment rate exceeds the statewide average rate by less than 40 percent, the maximum interest rate is 30 percent of the state bond issue rate for the first five years of the term, and 60 percent of the state bond issue rate for the remainder of the term. Projects in counties that have an unemployment rate below the statewide average receive maximum interest rates equal to 60 percent of the bond issue rate and 75 percent of the bond issue rate for the first five years and the remainder of the term respectively.
3. Interest rates may be set lower than the maximum if the PENNVEST Board determines that the community is so financially distressed that repayment of the loan is unlikely if the project were financed at the county interest rate maximums. If the Board determines that the community may not be able to repay the loan even if it were offered at one percent for the entire term, the Board may offer the system an additional grant, using Commonwealth funds.
4. Reduced interest rates and partial funding with grant money allow many systems to undertake needed water facility improvements/construction that would not be feasible otherwise. These projects protect the public health and safety of residents and allow system viability while utilizing SRF support.

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5. The financial planning undertaken for the fund includes the use of the PENNVEST affordability analysis to determine loan terms and repayments. In addition to a review of individual loans, a complex cash-flow model encompassing the entire portfolio will be used to project future fund capacity. This model will allow PENNVEST to determine the availability of future funding based on individual loan repayments, as well as additional fund inputs (i.e. future grant allocations). An annual budget is calculated, projecting funding levels within the DWSRF.

### ***Priority and Allocation of Assistance Funds***

The criteria used to prioritize projects are described in the “Ranking Framework for PENNVEST Drinking Water Projects” (Attachment 1). This ranking system was developed from the existing criteria used to rank projects under the PENNVEST program and modified to incorporate the requirements and limitations of the DWSRF program. The existing ranking criteria were derived from the PENNVEST Act (35 P.S. Sections 751.1 et seq., specifically Section’s 10(a) and 10(b)) and the PENNVEST regulations (25 PA Code Section 963.9). The affordability component of the rating system was removed from DEP review and placed with PENNVEST in 2001 with the approval of EPA Region 3. These ranking criteria were revised and approved by the PENNVEST Board and EPA in April 2014. The revised criteria more effectively ensure long-term water quality benefits while promoting the long-term sustainability of the Commonwealth’s water and wastewater systems.

Pennsylvania applies the criteria described above to develop the technical ranking of each project. The project is then evaluated considering the debt service and operation and maintenance costs and how they impact the resulting residential user rate. This financial analysis (affordability) will determine the amount of SRF assistance and the loan component interest rate(s).

The following is a description of PENNVEST’s “affordability” methodology that is currently used to determine where to place available principle forgiveness, or state-sourced grant funding in order to make otherwise prohibitively expensive projects affordable to a system’s users. This same approach also determines the interest rates charged on loans, the loan repayment period and, in some cases, the amount of funding that PENNVEST offers to applicants. The “affordability” methodology will be utilized to award principal forgiveness unless it is not otherwise required under Section 1452(d) of the Safe Drinking Water Act.

The general philosophy that lies behind the affordability methodology is that the ultimate determinant of a community’s ability to pay for a project hinges on the ability of the applicant’s users to pay for the services they receive, i.e. the drinking water, wastewater or storm water services provided by a PENNVEST- funded project. PENNVEST adjusts the financial assistance that is offered to a community to make the

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project affordable for its users. Adjustments can take the form of reduced interest rates on the loans, extended loan payback periods, principle forgiveness or grants (or some combination of the options). In order to decide if any adjustments are necessary, the first step is to define what we mean by “affordable.”

Each applicant is evaluated against several demographic factors to measure the local economic circumstances of the community. Most of these factors are derived from the most recent U.S. Census available on a Census Tract or Block Level basis from the Pennsylvania State University Data Center. The specific data used includes:

- Median Household Income – for this factor, the most recent Census data is updated by changes in the Consumer Price Index in order to get an estimate of the current income level
- Percentage of the population over age 64
- Percentage of the population below the poverty level
- Rate of population change in the community between Census data collection

A measure of local economic well-being constructed by the Department of Community and Economic Development (DCED) and used in its Financially Distressed Municipalities Matching Assistance Program is also used. The Early Warning System measure is constructed from nineteen variables that measure the financial condition of each municipality in the Commonwealth.

These measures are used together to construct a “target percentage” for an applicant’s community. This is the percentage of annual income that the users of a project are reasonably expected to be able to pay for either drinking water, wastewater, or storm water service. This percentage is constrained to be between .5 and 1.5 percent of the adjusted median household income. The relationships between each of the above factors and an applicant’s target percentage are:

- Median household income – direct relationship (the lower is median household income, the lower is the target percentage)
- Percentage of the population over age 64 – inverse relationship (the higher value is the percentage of the population over age 64, the lower value is the target percentage)
- Percentage of the population below the poverty level – inverse relationship (the higher value is the percentage of the population below the poverty line, the lower value is the target percentage)
- Rate of population change between the most recent Census – direct relationship (if population declined the target percentage is reduced)
- Early Warning System measure of economic distress – inverse relationship (the more distressed a community is, the lower the target percentage)

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Once calculated, the target percentage is then used to derive the target user rate for an applicant's community. This target rate is simply the product derived from multiplying the target percentage by median household income. It is this target rate that PENNVEST tries to achieve by varying the terms of the financial assistance offered to applicants. In doing so, the target user rate is compared with the actual rate that project customers will have to pay after the project being funded by PENNVEST is completed. This estimate accounts for all costs borne by these users, not just those associated with the project PENNVEST is funding.

If the actual resulting user rate exceeds the target rate, several options exist:

1. Reduce the interest rate on the loan, down to a minimum of 1.0 percent.
2. Substitute grant or Principle Forgiveness Loan funds for loan funds. Typically, this is constrained in the following ways:
  - a) No grant or Principle Forgiveness Loan funds will be invested into a project if the resulting user rate reduction is less than \$15 on an annual basis.
  - b) Grants or Principle Forgiveness Loans may be prorated over eligible recipients. That is, once the projects to be funded and the amount of available grant/principle forgiveness funding is identified, the available grant/principle forgiveness loan funds may be pro-rated to the eligible projects in proportion to the unconstrained amounts that the affordability analysis determines for each recipient.
3. Extend the term (i.e. repayment period) of the loan to more than twenty years. However, the loan term will only be extended if evidence that the useful life of the facilities is sufficient.
4. A start-up system with a user rate that exceeds twice the target user rate after being extended to a 30-year loan is eligible to have the loan term extended enough to bring the user rate down to twice the affordable rate. However, the term will not extend past 40 years.

### ***BIL Lead Service Line Replacement Incentives***

Due to the health risks associated with lead service lines and current lack of progress in attracting systems to the PENNVEST program to obtain low-interest loans for lead service line replacement projects, a modification to the affordability analysis associated with drinking water systems with lead line replacement projects seeks to promote these projects in the neighborhoods that can least afford the cost to replace the necessary piping. As described above, in order to target limited grant funds for the neediest systems, PENNVEST looks at the impact the potential grant will have on the resulting residential user fees. This tends to eliminate the largest systems from grant consideration, as project costs can be shared by a greater number of households

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spreading the cost impact across the entire system. However, the larger systems are also often those with the greatest lead service line replacement needs.

For those systems with lead service line replacement needs that have adequately mapped and designated high need areas and reach an action level under the Revised Lead and Copper Rule, PENNVEST could consider the rate impact on those specific areas or neighborhoods within the larger system in lieu of overall system users. This could provide a more realistic picture of the consequence of the capital improvement on the specific community impacted and allow for these types of projects to be eligible for additional subsidy, thus expediting correction and addressing the public health and environmental hazard.

In some cases, PENNVEST may offer only part of the funding that an applicant requests, particularly if there is a much greater demand for funding than can be met. This can occur when the resulting user rate is below the affordable rate. In such cases, typically 50 percent of the needed funding is offered, and the borrower is expected to obtain the other 50 percent from some other source (e.g. a bank or a bond issue). The resulting user rate that is calculated and compared with the affordable rate includes the debt service on this other borrowing.

The latest tool available to applicants is Loan Guaranty. In cases where the program can only offer partial or no direct loan funding, PENNVEST has the option of providing a loan guaranty. In these cases, the community/system would be able to take advantage of private sector borrowing to complete its funding package, using PENNVEST and its bond rating as security, reducing the overall cost of borrowing.

### ***Loan and Grant Offering Determination for Systems***

Both public and private entities may apply directly to PENNVEST and are subject to the same ranking and review criteria as other DWSRF projects.

For Private-for-Profit projects tax returns and personal financial statements of the system owner are utilized to evaluate availability of operating revenue and cash flow analysis to cover debt service on a loan. A three-prong approach to this review is used:

1. If the average gross revenues for the most recent three years are equal to or greater than \$1 million, the funding is offered as a loan. If the average gross revenues for the most recent three years is less than \$1 million, but the average cash flow before taxes is greater than \$100,000 and this average net cash flow exceeds the projected PENNVEST debt service; the funding is offered as a loan.
2. When average gross revenues for the most recent three years is less than \$1 million and the average cash flow before taxes is less than \$100,000 but the PENNVEST debt service is less than 15% of the consolidated personal cash flow of entities' owners, the funding offered is loan.

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3. Should the entity not meet any of the above criteria – funding offer is grant or principle forgiveness loan.

For Not-for-Profit sponsored projects PENNVEST evaluates the capacity of the entity through tax returns, financial statements, or other information as necessary. The intent is to reach through to owners/benefactors to evaluate capacity to cover debt service.

For Public (Municipal) sponsored projects audited financial statements, DCED reports or other information such as related to the general fund or sewer fund revenues, as may be necessary to evaluate ability to handle debt. When a county or regional governmental unit is sponsoring a funding request, the capacity evaluation is based upon the municipality where the facilities/improvements are being constructed. Both cash flow and cash available are evaluated in the following manner:

Test 1: Is the unrestricted cash and investments equal to or exceed last year's cash operating expenses (including cash paid for debt service) plus the amount of the requested PENNVEST funding?

Test 2: Is the average cash flow before debt service for the last three years equal to or greater than two (2) times the total projected debt service (existing plus new PENNVEST loan)?

- If they pass both tests, the funding is offered as a loan.
- If they pass one test but fail the other the funding offer is ½ loan, ½ grant or principle forgiveness loan.
- If they fail both tests the funding offer is all grant or principle forgiveness loan.

### ***How Pennsylvania Defines a Disadvantaged System***

PENNVEST utilizes a financial capability analysis that compares various community specific demographic data to similarly situated communities across the Commonwealth to determine a percent of the community's adjusted median household income (MHI) that should be available to pay for water service. The amount that should be available to pay for water service by residential customers will range from 0.5 to 1.5 percent of the community's adjusted MHI dependent upon the specific socio-economic factors that are provided by the Pennsylvania DCED. This process aids in an equitable distribution of residential user rates.

Should the estimated resulting residential user rates be higher than similar systems, even after PENNVEST has provided the most favorable funding package available, based upon criteria set forth in the PENNVEST Act and regulations and further described in this document under the section "Priority and Allocation of Assistance," these systems would be considered "disadvantaged" for the purpose of term extension from the normal 20 years to a term of up to, but not to exceed, 30 years repayment of principal and interest. Systems qualifying for term extensions must exceed the user

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rate(s) found in similar systems according to the PENNVEST financial capability model. The terms will be extended to a point that will allow the residential user rate to fall to a level equal to similar systems' cost of water service, as determined by the demographic analysis and financial capability analysis.

In considering projects where there are no immediate users, such as some green infrastructure, the above-described methodology will be modified. In such cases PENNVEST will look to the applicant's financial capability to repay a loan. If there is no reasonable expectation that this capability will be present, then PENNVEST could determine that the applicant fits the definition of a disadvantaged system.

Additionally, any community identified as disadvantaged using the Council on Environmental Quality (CEQ) Climate and Economic Justice Screening Tool or located in a Pennsylvania defined Environmental Justice Area will be considered a disadvantaged system for purposes of applications relating to design and engineering projects with the financial capability analysis being performed on the service area impacted by the proposed project instead of system wide.

### ***Cash Flow Model***

Pennsylvania uses a complex cash flow model that will allow for optimal funding decisions to be made. The cash flow model will provide loan portfolio activity analysis for the multiple funding scenarios. The model has recently been completely redone to accommodate changes in software and program requirements.

### ***Loan Repayment***

Pennsylvania requires repayment to commence shortly after final inspection following construction completion. Generally, repayment is done on a monthly basis. The Board may defer principal payment for up to five years in certain financially or economically distressed communities in order to maintain the fund. This procedure ensures available cash flow for continuous use of the fund. It would not, however, result in no payments being made within one year of completion of construction since some payment would always be required, even in the most extreme circumstances.

### ***Automated Clearinghouse (ACH)***

Pennsylvania utilizes a state ACH program to electronically debit borrowers for debt service on their loans. The participation in the ACH program is a loan requirement. The ACH program ensures the receipt of loan repayments on a timely basis. Additionally, PENNVEST offers the option to use the ACH program to electronically deposit disbursements to a loan recipient's account.

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### ***Leveraging of Funds***

In 2018, PENNVEST issued leveraged revenue bonds to capitalize its Clean Water and Drinking Water SRF Loan Programs. The proceeds of the leveraged bonds are deposited in the Authority's SRF accounts to provide financial assistance for participants' eligible project expenses. Financial assistance is provided in the form of loans, subject to the terms of a financial assistance agreement by and between an eligible participant and PENNVEST:

1. The monies to be used for security will primarily consist of all loan repayments, including principal and interest, as well as any debt service reserve funds, to the extent funded. The Clean Water (CW) and Drinking Water (DW) cash flows will be calculated separately for both debt service sufficiency and coverage (perpetuity), however the bonds will be issued on a combined basis.
2. As described above, the primary source of payment for CW and DW portions of the revenue bonds will be from the revenues related to the respective programs, and in the event of loan defaults, the debt service coverage available in each respective program will be the first monies used to pay debt service. If the applicable program's revenues are insufficient, the excess revenues (coverage) of the other program will be used to assure debt service sufficiency.
3. The bond documents will provide that, in the event, monies of one program (i.e., Clean Water) are used to pay debt service on the revenue bonds related to the other program (i.e., Drinking Water), the first available excess funds, either from recovered loan defaults or future revenue coverage on the Drinking Water program, will be used to "repay" the Clean Water fund. Thereafter, recovered loan defaults or excess coverage will be used to replenish the Drinking Water program's equity. In this manner, it is unlikely that the funding capacity of either program will be affected by defaults in the other, cross-collateralized program.

### ***Loan Portfolio Management***

Pennsylvania uses a comprehensive Loan Monitoring Program (LMP) for loan portfolio management. The LMP includes risk definition, monthly and annual payment review, annual financial statement review and ongoing management analysis. The LMP is a pro-active management tool to protect the integrity of the loan portfolio.

### ***Management of Unliquidated Obligation of Federal Funds***

PENNVEST intends to either disburse the federal and state match to payment requests beginning as soon as the award is made until all program funds are disbursed; or, if commercial paper has been issued in the Federal program, pay down the commercial paper balance with federal and state funds upon award. For the second year in a row, all capitalization grant and state match funds have been fully disbursed from the Project Fund within the year of award. The Set-Aside funds will be disbursed as quickly and

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reasonably as possible to achieve EPA's two- year expenditure policy.

### ***Small Community Focus for Repayment of Funds***

Pennsylvania intends to utilize money from the State Program and the DWSRF repayment funds to focus on providing relief to as many federal requirements as possible, i.e. Single Audit while still meeting the cumulative Equivalency requirement. By focusing the repayment funds to these communities, Pennsylvania expects to be able to help those communities better meet their funding needs and contribute to a better overall financial package that will lower soft costs and reduce the impact on the residential user rate of having to finance these project costs. Pennsylvania's tracking system will adequately document the flow of funds to eligible communities.

While Pennsylvania's traditional assistance programs meet the needs of most potential funding applicants, some lower cost projects in small communities are presently not accessing the program for funding, in part due to the expense in complying with additional terms tied to the funds and the time delay between application and funding offer. To address these issues, Pennsylvania is providing up to \$500,000 toward costs, per project, and has allocated \$15,000,000 toward the Small Project Initiative ("SPI") program in general, authorizing staff to conduct an expedited review on the applications and make the funding awards. The SPI funding awards are in the form of low interest loans only, no extended term bond purchases, grants, or principal forgiveness loan awards. The reviews and approvals are expedited at the staff level reducing the time it takes to receive an award. Small projects are defined as projects serving communities with a population of 12,000 people or less or projects having hookups of 1,000 or less, or projects involving an agriculture operation.

For the Base Grant and General Supplemental Grant Pennsylvania intends to comply with the 15 percent funding requirement for small systems as described in Section 1452(a)(2) of the Act. Pennsylvania expects to be able to make use of the available funding in areas where it has the most impact and promote an equitable distribution of user rates utilizing this approach.

### ***Programmatic Financing***

Many large government owned and private drinking water and wastewater utilities use the tax-exempt market to fund infrastructure projects identified in their comprehensive capital improvement plans (CIP). A CIP includes projects the utility intends to implement over the next few years. Governmental utilities sell general obligation or revenue bonds to fund their projects whereas the private utilities use an asset backed security. In all cases the cost of borrowing at market interest rates is passed on to the customer through the rate structure. Project by project funding through either Pennsylvania or the market often results in a sudden spike to the user rate to accommodate the debt repayment.

Programmatic Financing ("Pro Fi") is better aligned with Pennsylvania's funding with

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the needs of the utilities. In brief, Pro Fi shifts the traditional project-specific lending strategy to one that is more congruent with the utility planning model, matching the funding approval to the annual (or multi-year) cash flow needs of the utility. Instead of issuing a binding commitment for a certain amount of dollars for a single project, a Pro Fi funding package funds a CIP (in entirety or in part) for a group of drinking water projects so long as each individual project is eligible and prepared in compliance with program requirements. This helps develop strong lasting relationships with the larger private and government owned utilities as repeat borrowers, allows Pennsylvania to extend the subsidies of the program to the benefit of the residential customers, and ensure funding is available to facilitate timely replacement of deteriorating infrastructure.

### **H. The Impact of Funding Decisions**

#### *Set-asides Funds*

Sections 1452(g) and 1452(k) of the Act provide that certain percentages of Pennsylvania's allotment under Section 1452 may be reserved for various uses other than project funding. Attached to this IUP is the FY2022 workplan for the use of these set-aside funds for Base, General Supplemental, LSL Replacement, and Emerging Contaminants Grants. This workplan captures how DEP will be utilizing all the funds from these three categories. The 4% - Administrative set-aside funds for each of the four grants identified above is used by PENNVEST for the administration of the DWSRF and is not included in the EPA workplan for set-asides.

#### *Disadvantaged Communities*

Based on the definition of Pennsylvania's intended use of this program (see Section VIII), the financial impact to the fund corpus will be a delay in receiving loan principal and interest repayments. This program use does not diminish nor reduce the corpus of the fund. The actual federal investment will remain the same over the long term of the DWSRF program.

## **VI. Program Management**

### **A. Assurances and Specific Proposals**

PENNVEST will provide the necessary assurances and certifications as identified in the Operating Agreement (OA). The OA was amended February 2016 and approved by EPA. The OA includes, and will continue to include, as it relates to this capitalization grant application, the requirements of the following sections of the law:

1. 602(a) - Environmental Reviews - DEP will conduct environmental reviews as specified in Attachment 5 of the OA ("State Environmental Review Process (SERP) DWSRF") and Appendix D of EPA's SRF Initial Guidance ("Criteria for Structuring a

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State Environmental Review Process”).

2. 602(b)(3) - Binding Commitments - PENNVEST will enter binding commitments for 120% of each quarterly payment within 1 year of receipt of that payment.

3. 602(b)(4) - Expeditious and Timely Expenditures - PENNVEST will expend all funds in the DWSRF in a timely and expeditious manner, as outlined in the DWSRF financial plan.

### **B. Federal Requirements**

Many federal requirements apply to the Base, General Supplemental, LSL Replacement, and Emerging Contaminants Grants. Applicable requirements are included in the funding agreements between PENNVEST and the borrower. Requirements associated with equivalency dollars for the Base and General Supplemental Grants as well as the grant dollars associated with the LSL Replacement and Emerging Contaminant grants are:

- Davis-Bacon Wage Rate Compliance (DB)
- Disadvantaged Business Enterprise Compliance (DBE)
- American Iron and Steel Compliance (AIS)
- Build America Buy America Provisions of IIJA (BABA Act)
- Architectural and Engineering Procurement Compliance (A&E)
- Federal Super Crosscutters
- Federal environmental Crosscutters
- Single Audit Act (OMB-A-133)
- Federal Funding Accountability and Transparency Act (FFATA) reporting.

Compliance with these requirements will be maintained in the project files as the projects are implemented.

#### ***Financial Status***

Pennsylvania agrees to submit to EPA a Federal Financial Status Report - Standard Form 425 within 90 days after the end of each state fiscal year during the term of the capitalization grant agreement.

Pennsylvania's use of the disadvantaged community assistance will consist of principal forgiveness, reduced interest rates and/or extended terms of the loan. Pennsylvania reserves the right to review and adjust all program activities.

#### ***Assurance of Recipient Capability***

All DWSRF applicants will be evaluated for compliance with technical, managerial, and financial capability requirements. Applicants considered to lack capability will be evaluated for anticipated capability as a result of DWSRF assistance. Before a project

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is recommended for funding, one of three DEP Capability Enhancement Facilitators (CEFs) will complete an assessment of the system's technical and managerial capability using the forms in Attachment 2 and PENNVEST will complete an analysis of the system's financial capability as part of the PACNIF financial assessment process. The TMF Capability Assessment Process has the following steps:

1. The CEF will review the system's Capability Enhancement Program Priority Ranking Score (PRS) and EPA Enforcement Tracking Tool (ETT) scores to determine if an onsite evaluation is needed. Those systems with a PRS score  $\geq 200$  or an ETT score  $\geq 11$  will require an onsite TMF assessment. If the onsite evaluation is not required, the CEF can complete the **PENNVEST Capability Approval Sheet** in Attachment 2 and the Technical and Managerial Capability Assessment is completed for the system. The approval is valid for a period of 12 months from the date it was signed. PENNVEST can then move forward with the Financial Capability Assessment as part of the usual PACNIF financial assessment process.
2. Some of the systems will have a PRS score  $\geq 200$  or an ETT score  $\geq 11$  and will require an onsite TMF assessment. The following two documents will be needed to complete the onsite capability assessment. These documents are also included in Attachment 2.
  - a. **TMF Self-Assessment Tool** - The applicant will complete this multiple choice TMF Self-Assessment and return the results to the CEF. The TMF Self-Assessment Tool is not a complete evaluation of all capability needs and is not a substitute for a complete onsite TMF assessment. It does provide the CEF with information to help prepare them for the onsite TMF assessment. The CEF will schedule the onsite TMF Assessment after the water supplier returns the results of the self-assessment.
  - b. **PENNVEST Capability Checklist** - The CEF will use this checklist to document the system's technical and managerial capability weaknesses during the onsite assessment. If no technical or managerial capability weaknesses are found, the CEF will complete the PENNVEST Capability Approval Sheet in Attachment 2 and the Technical and Managerial Capability Assessment is completed for the system. The approval is valid for a period of 12 months from the date it was signed. PENNVEST can then move forward with the Financial Capability Assessment as part of the usual PACNIF financial assessment process.
3. If technical or managerial capability weaknesses are identified, the water supplier will be notified by email with a copy to appropriate DEP and PENNVEST program staff. The notification will include the PENNVEST Capability Checklist containing a narrative with details about the weakness. The email will also offer DEP assistance through DEP's Operator Outreach Assistance Program, Professional Engineering Assistance Program, or the Capability Enhancement Program to resolve the identified weakness. The CEF will follow-up with the water supplier by phone to verify receipt of

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the email and discuss the system's next steps and how the system would like to proceed to resolve the weakness in a timely manner so that the project can move forward. If the PENNVEST funded project is expected to address the capability weakness, the CEF will complete and sign the PENNVEST Capability Approval Sheet so the project can move forward.

A project will not be recommended for funding to the PENNVEST Board until this assessment is completed and approved. Determination of compliance after DWSRF assistance will be accomplished through currently established procedures for routine evaluation of system performance (routine monitoring and sanitary surveys) in accordance with EPA guidance.

### **C. Davis-Bacon Prevailing Wage Rates Compliance**

To ensure compliance with this requirement, DEP will review and approve the wage rates defined by the grant or loan recipient's project engineer. PENNVEST, as part of the oversight and auditing procedures, will ensure compliance with the remaining Davis-Bacon requirements including the submittal of certified wage payroll forms on a weekly basis by the project contractors, the conducting of random interviews of workers on-site by the grant or loan recipient and the posting of the Davis-Bacon wage rates to be paid in a prominent location at the job site.

### **D. Disadvantaged Business Enterprise Compliance**

To ensure compliance with this requirement, DEP will review and approve the DBE solicitation efforts of the borrower / borrower's engineer for prime contractors as well as the efforts of the subcontractors associated with each selected prime contractor.

### **E. American Iron and Steel Compliance**

In the EPA budget for 2014, Congress required DWSRF assistance recipients to use iron and steel products made in the United States for drinking water projects where the project has approved plans and specs dated after January 17, 2014. A waiver was provided for projects if the plans and specs were submitted before January 17, 2014 and approved by April 15, 2014. For 2015, this provision applied to projects where plans and specs were approved after December 16, 2014. To ensure these projects are constructed with American made iron and steel products as defined by the EPA Guidance, "Implementation of American Iron and Steel Provisions of P. L. 113-76, Consolidated Appropriations Act, 2014" dated March 20, 2014 the following steps will be taken:

1. PENNVEST includes language requiring implementation of this requirement in the Loan Agreement at settlement.
2. Using the EPA guidelines as an example, standard language for the manufacturer or contractor certification that the materials used in the project are made in the United States and a template for the documentation of "de minimis" materials was

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developed and posted on the DEP website for use by project recipients.

3. Signoff by the licensed professional engineer for the project will be required with each payment request. The applicant will be responsible for keeping all documentation.
4. DEP project manager will verify AIS compliance during interim and final inspection/site visits.
5. PENNVEST will include review of this requirement in the random project audits they perform.
6. DEP will review all waiver requests to ensure compliance with the EPA guidelines and submit them to EPA Headquarters for review and approval. DEP will serve as the point of contact for questions regarding waivers and the waiver process.

### **F. Build America Buy America Provisions of IIJA (BABA Act)**

When required by the identified funding source, Each PENNVEST funding agreement contains language requiring compliance with the BABA Act. DEP will create guidance and a review process similar to the AIS compliance requirement.

### **G. Civil Rights Laws (Federal Super Crosscutters)**

Each PENNVEST funding agreement contains language requiring compliance with the Civil Rights Laws. EPA's nondiscrimination regulations prohibit recipients of EPA financial assistance from taking actions in their programs or activities that are intentionally discriminatory and/or have a discriminatory effect based on race, color, national origin (including limited English proficiency), age, disability, or sex.

### **H. Federal Environmental Crosscutters**

To ensure compliance with this requirement, the DEP project manager will review the environmental report for each project as per the federally approved state environmental review process (SERP) and complete the environmental review template for projects qualifying for a categorical exclusion as well as an environmental assessment.

### **I. Audits and Reporting**

Pennsylvania is committed to transparency and accountability. All program information including the intended use plans, annual reports and other program materials are posted on either the DEP or PENNVEST websites.

An independent audit is conducted annually by an Independent Auditing firm under contract to PENNVEST.

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Project milestones and information are reported through EPA's Projects & Benefits Reporting (PBR) database. Pennsylvania commits to entering benefits information on all projects into PBR by the end of the quarter in which the assistance agreement is signed.

An Annual Report will be done that includes information regarding key project characteristics, milestones, and environmental/public health protection results in the following areas: 1) achievement of the outputs and outcomes established in the Intended Use Plan; 2) the reasons for delays if established outputs or outcomes were not met; 3) any additional pertinent information on environmental results; 4) funding devoted to the promotion of green infrastructure projects; and 5) compliance with the additional subsidization requirement.

### **J. EPA Signage Policy**

PENNVEST will ensure compliance with the EPA Signage policy through the press release after each PENNVEST Board meeting. The projects approved by the PENNVEST Board at the meeting funded with DWSRF funds will be highlighted in this press release.

## **VII. Public Review and Comment**

PENNVEST conducts outreach for its programs on a continuous basis throughout the year. These outreach efforts include conducting one-on-one sessions with potential applicants and consultants, participating in various webinars sponsored by other partners or groups involved in water quality improvement, participation with organizations at their annual conferences, as well as PENNVEST specific outreach events that are hosted across the state annually or virtually to promote programs and new funding opportunities while seeking input to continuously grow program access and delivery. Specific events participated in to date include the Pennsylvania State Association of Township Supervisors Annual Conference, Pennsylvania Rural Water Annual Conference, Pennsylvania Municipal Authorities Association Annual Conference, Women for a Healthy Environment, Lower Susquehanna Source Water Partnership Meeting, Grant Equity Interagency Workgroup, Small Water Company Task Force, and the Environmental Protection Agency's Mid-Atlantic Conference. Future events include a PENNVEST webinar series, Pennsylvania State Association for Boroughs Annual Conference, and a County Commissioners' Association of Pennsylvania meeting. Finally, the Intend Use Plan is published in the Pennsylvania Bulletin for a 30-day public comment period.

The PENNVEST Board schedules four project review and approval meetings each state fiscal year. The Board meets in January, April, July, and October to review and approve funding for projects. These projects are subject to the provisions included in the public comment periods for the IUP and PPL.

On June 4, 2022, a notice was published in the *Pennsylvania Bulletin* regarding public

**Drinking Water State Revolving Fund Intended Use Plan  
SFY22-23 Multiple Federal Grants**

comments. The 30-day public comment period expired July 5, 2022. We received comments from five (5) commenters. In total 21 comments were made the subjects of which were mainly affordability analysis, technical assistance, disadvantaged communities, and environmental justice (EJ) communities.

Electronic comments (eComments) and written comments submitted to the Policy Office are addressed in a publicly accessible comment and response document located here: <https://www.dep.pa.gov/Business/Water/CleanWater/InfrastructureFinance/Pages/State-Revolving-Fund.aspx> .

Copies of the IUP and the PPL are available upon request from the PA Department of Environmental Protection, Division of Municipal Facilities or through the DEP website at <https://www.dep.pa.gov/Business/Water/CleanWater/InfrastructureFinance/Pages/State-Revolving-Fund.aspx> . The link to these documents is on the right-hand side of the page under “State Revolving Fund Intended Use Plan.”