



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF WATER

May 27, 2022

**MEMORANDUM**

**SUBJECT:** Implementation of the Tribal Water Infrastructure Appropriations in the Bipartisan Infrastructure Law

**FROM:** Radhika Fox  
Assistant Administrator

A handwritten signature in black ink, appearing to be "R. Fox", is written over the name and title of the sender.

**TO:** Regional Water Division Directors  
Regional Clean Water Tribal Set-Aside Program Contacts  
Regional Drinking Water Tribal Coordinators

**Overview**

President Biden signed the Bipartisan Infrastructure Law (BIL), also known as the “Infrastructure Investment and Jobs Act of 2021” (IIJA) P.L. 117-58, on November 15, 2021. The law’s investment in the water sector is nothing short of transformational. It includes \$50 billion to the U.S. Environmental Protection Agency (EPA) to strengthen the nation’s drinking water and wastewater systems – the single largest investment in water infrastructure that the federal government has ever made. The majority of the BIL funding will flow through the Clean Water and Drinking Water State Revolving Funds (SRFs). Importantly, the BIL includes more than \$868 million to address long-standing tribal drinking water and wastewater infrastructure needs. EPA is committed to a productive partnership with tribal governments and other federal agencies to maximize the impact of these funds in addressing water challenges.

The March 8, 2022 memo, *Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law* (herein *BIL SRF Implementation Memo*), describes the implementation approach for the Clean Water and Drinking Water SRFs. This memorandum focuses on the two tribal set-aside programs from the BIL SRF appropriation: the [Clean Water Indian Set-Aside \(CWISA\)](#) and the [Drinking Water Infrastructure Grant - Tribal Set-Aside \(DWIG-TSA\)](#). This memorandum also provides information and guidelines on how EPA will allocate and administer the CWISA and DWIG-TSA funds appropriated to the State and Tribal Assistance Grants (STAG) account in the BIL. BIL funding is subject to all applicable requirements of the existing Clean Water Act (CWA), Safe Drinking Water Act (SDWA), and federal grant regulations.

This memorandum is organized in the following manner:

- **Section 1 - Overall Tribal Set-Aside Funding and Key Priorities**  
This section provides an overview of the BIL tribal set-asides and the key priorities for this funding. EPA will work closely with tribes and our federal partners to collaboratively maximize the impact the of BIL funds toward public health and environmental protection goals.
- **Section 2 - CWISA Program and Specific Allocations**  
This section provides details and information pertaining to:
  - CWISA BIL allocations,
  - CWISA Emerging Contaminants funding, and
  - Technical assistance.
- **Section 3 - DWIG-TSA Program and Specific Allocations**  
This section provides details and information pertaining to:
  - DWIG-TSA BIL allocations,
  - DWIG-TSA Emerging Contaminants and Lead Service Line Replacement funding, and
  - Technical assistance.
- **Section 4 – Oversight**  
This section provides a summary of EPA’s commitment to provide appropriate oversight to the BIL funds.
- **Section 5 – Conclusions**

This implementation memorandum is intended to be applicable to all five years of BIL appropriations. Additional communications for projects related to emerging contaminants and lead service line replacements in tribal communities will be provided when available. EPA also anticipates issuing memoranda during Fiscal Years (FY) 2023 through 2026 with additional allocation information and program updates.

## **Section 1: Overall Tribal Set-Asides Funding and Key Priorities**

### ***BIL Tribal Set-Asides Funding***

The BIL appropriates more than \$43 billion to be administered through the existing CWSRF and DWSRF programs from FY 2022 through 2026, with approximately \$868 million set-aside and dedicated to tribal water projects. Table 1 shows a summary of the five distinct BIL SRF appropriations and annual appropriation amounts. The two tribal set-aside programs are authorized by Congress at two percent (2%) of each of the amounts appropriated to the SRF programs. After applying the two percent set-aside, Table 2 provides the potential five-year total \$868 million tribal set-aside amount, and a summary of the five distinct annual appropriations for the BIL CWISA and DWIG-TSA General Supplemental funds, the CWISA and DWIG-TSA Emerging Contaminants funds, and the DWIG-TSA Lead Service Line Replacement funds.

In general, EPA will administer the BIL General Supplemental funds using the existing CWISA Program and DWIG-TSA Program requirements and procedures. Information on EPA’s tribal set-aside

programs including eligibility requirements can be found at the [CWISA Program Website](#) and [DWIG-TSA Program Website](#). Sections 2 and 3 of this memorandum provide detailed information about the specific allotments for the BIL tribal set-aside funding and requirements.

**Table 1. Summary of BIL Appropriations to the SRFs - FY 2022 through FY 2026**

Appropriation	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Five Year Total
<b>CWSRF General Supplemental</b>	\$1,902,000,000	\$2,202,000,000	\$2,403,000,000	\$2,603,000,000	\$2,603,000,000	<b>\$11,713,000,000</b>
<b>CWSRF Emerging Contaminants</b>	\$100,000,000	\$225,000,000	\$225,000,000	\$225,000,000	\$225,000,000	<b>\$1,000,000,000</b>
<b>DWSRF General Supplemental</b>	\$1,902,000,000	\$2,202,000,000	\$2,403,000,000	\$2,603,000,000	\$2,603,000,000	<b>\$11,713,000,000</b>
<b>DWSRF Emerging Contaminants</b>	\$800,000,000	\$800,000,000	\$800,000,000	\$800,000,000	\$800,000,000	<b>\$4,000,000,000</b>
<b>DWSRF Lead Service Line Replacement</b>	\$3,000,000,000	\$3,000,000,000	\$3,000,000,000	\$3,000,000,000	\$3,000,000,000	<b>\$15,000,000,000</b>
<b>Total for all Appropriations</b>	<b>\$7,704,000,000</b>	<b>\$8,429,000,000</b>	<b>\$8,831,000,000</b>	<b>\$9,231,000,000</b>	<b>\$9,231,000,000</b>	<b>\$43,426,000,000</b>

**Table 2. Summary of Tribal Set-Aside Amounts - FY 2022 through FY 2026**

Appropriation*	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Five Year Total
<b>CWISA BIL General Supplemental</b>	\$38,040,000	\$44,040,000	\$48,060,000	\$52,060,000	\$52,060,000	<b>\$234,260,000</b>
<b>CWISA Emerging Contaminants</b>	\$2,000,000	\$4,500,000	\$4,500,000	\$4,500,000	\$4,500,000	<b>\$20,000,000</b>
<b>DWIG-TSA BIL General Supplemental</b>	\$38,040,000	\$44,040,000	\$48,060,000	\$52,060,000	\$52,060,000	<b>\$234,260,000</b>
<b>DWIG-TSA Emerging Contaminants</b>	\$16,000,000	\$16,000,000	\$16,000,000	\$16,000,000	\$16,000,000	<b>\$80,000,000</b>
<b>DWIG-TSA Lead Service Line Replacement</b>	\$60,000,000	\$60,000,000	\$60,000,000	\$60,000,000	\$60,000,000	<b>\$300,000,000</b>
<b>Total for all Appropriations</b>	<b>\$154,080,000</b>	<b>\$168,580,000</b>	<b>\$176,620,000</b>	<b>\$184,620,000</b>	<b>\$184,620,000</b>	<b>\$868,520,000</b>

\*Annual set-aside funding is dependent upon percentages established in annual appropriations and cannot be considered final.

The partnership between EPA and the Indian Health Service (IHS) is integral to addressing significant water infrastructure challenges utilizing BIL funding. As noted in the [February 2020 letter](#) to local

federal tribal task force members, Principals of the Tribal Infrastructure Task Force (ITF) asked “that each ITF member agency, acting within their authorities, reach out to and work with your partners and counterparts in other federal agencies to increase the level of collaboration in the provision of safe drinking water and basic sanitation.” A central tenant of this federal partnership is the flexibility that allows for regional federal partners to collaborate and use federal funding to address unique regional tribal needs. EPA’s Regional Offices (Regions) will continue to work closely with tribes and federal partners to administer the BIL tribal set-aside funds, in accordance with the Memorandum of Understanding (effective February 9, 2022) between the U.S. Department of Agriculture (USDA), the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Health and Human Services (DHHS), the U.S. Department of the Interior (DOI), and EPA, to assist tribes in improving quality of life by providing infrastructure and promoting sustainable practices and resiliency to support the provision of safe drinking water and basic sanitation, including wastewater and solid waste, for tribal communities.

Effective need identification, project planning, and preliminary engineering are recognized as key factors in project success and effectiveness of infrastructure investment. The Infrastructure Task Force has formally acknowledged this need and multiple federal agencies require Preliminary Engineering Reports or an equivalent document as a prerequisite for project funding. In implementing the General Supplemental, Emerging Contaminants and Lead Service Line Replacement programs, Regions are encouraged to consider using the USDA-maintained [Electronic Preliminary Engineer Report](#).

Local tribal drinking water and wastewater systems (and other eligible assistance recipients) receive support for accessing BIL tribal set-aside funding directly through their Regional CWISA and DWIG-TSA programs. Tribes, tribal consortia, and tribal utilities should direct questions about funding program eligibilities to their regional program contacts found at: [CWISA Program Contacts Webpage](#) and [Regional Tribal Drinking Water Coordinators Contact Webpage](#).

This implementation memorandum confirms and reinforces regional flexibilities for BIL funding, subject to the appropriation language in the BIL, including, but not limited to determining priorities, selecting projects, and transferring funds between programs to address regional needs. In line with existing policy, Regions have the flexibility to transfer funds between the CWISA and DWIG-TSA programs. Given BIL’s requirements, authorities, and narrower eligibilities, Regions may only transfer funds between the specific BIL appropriations in the equivalent CWISA or DWIG-TSA program. In other words, Regions may only transfer funds between the CWISA and DWIG-TSA BIL General Supplemental grants or between the CWISA and DWIG-TSA Emerging Contaminants grants. Because there is no similar CWISA appropriation for Lead Service Line Replacement, no funds may be transferred from or to the DWIG-TSA BIL Lead Service Line Replacement appropriation. Regions also may not transfer BIL appropriations to or from base appropriations. Regions considering the transfer of funds between CWISA and the DWIG-TSA programs and the BIL General Supplement should contact headquarters program staff leads listed in Section 5.

### ***Key Priorities***

Many key priorities noted in the *BIL SRF Implementation Memo* apply to the tribal set-aside funds. More specifically for tribes these include the following:

***Provide flexibility to meet local water needs:*** To meet the needs of tribal communities, Regions are encouraged to provide flexibility where possible. BIL funding maintains the fundamental principle of these tribal set-aside programs to promote flexibility in program implementation.

***Increase investment in disadvantaged communities:*** The Biden-Harris Administration has directed increased focus on supporting disadvantaged communities. As EPA implements the BIL tribal set-aside funding, technical assistance and community engagement will broaden funding access for water infrastructure projects to reach underserved communities. EPA will continue to collaborate closely with federal partners, tribes, and technical assistance service providers to help tribal water systems that may need support to strengthen their financial, managerial, and technical capacity.

***Make rapid progress on lead service line replacements:*** The BIL contains a historic \$300 million (Table 2) in dedicated funding through the DWIG-TSA for lead service line identification and replacement in tribal communities. EPA will collaborate with federal partners, key stakeholders, and tribes to share models, guidance, and technical assistance to support use of lead service line funds. Regions are encouraged to work with federal partners such as IHS and tribes to support use of funds to rapidly complete both lead service line inventories and full, not partial, lead service line replacements.

***Address perfluoroalkyl and polyfluoroalkyl substances (PFAS) and emerging contaminants:*** The BIL provides \$100 million (Table 2) through CWISA and DWIG-TSA to reduce tribal communities' exposure to emerging contaminants. This funding demonstrates an unprecedented commitment by Congress to address emerging contaminants with a focus on PFAS water contamination. PFAS are not the only emerging contaminants that threaten water supplies and the environment, and water projects that address other emerging contaminants will also be eligible for funding under this program.

***Support resilience and One Water innovation:*** EPA encourages tribal communities to utilize the significant increase in funding for infrastructure projects that make tribal water systems more resilient to all threats – especially threats like natural disasters, climate change, bioterrorism, and cyber-attacks. Tribal communities are strongly encouraged to pursue projects that foster resilience to all threats and hazards, support climate adaptation, and drive toward energy efficient and climate smart water systems. EPA stands ready to provide tribes with technical assistance to reach this goal. For more information on increasing resilience, please see the *BIL SRF Implementation Memo*.

***Support American workers and renew the water workforce:*** BIL is an opportunity to not only reinvest in water infrastructure but also to invest in the water workforce. BIL investments will create jobs in construction, operations, and maintenance, and other family-supporting careers. EPA is committed to working with tribes, as well as states, territories, labor organization, employers, and educators, to renew America's water workforce and create good-paying jobs in tribal communities.

***Cultivate domestic manufacturing:*** Congress passed the Build America Buy America (BABA) Act in 2021, concurrently with the BIL. Congress established this domestic preference program to create long-term opportunities for domestic manufacturers and manufacturing jobs and build resilient domestic supply chains for a wide range of products. BABA built upon existing American Iron and Steel (AIS) requirements under the SRF programs to include construction materials and manufactured goods. On April 18, 2022, the Office of Management and Budget released program guidance to federal agencies on BABA that included, but is not limited to tribal consultation, effective date, and waivers. EPA is scheduled to issue implementation procedures for BABA compliance for federal water infrastructure funding programs, including a process for applying for waivers under BABA. EPA recognizes this is a

new provision and will work closely with federal agencies and tribes on BABA technical assistance and training, as needed, to ensure compliance with the requirements.

***Support tribes to build a pipeline of projects:*** EPA encourages strategic use of new authorities and funds from BIL as a catalyst to continue building and maintaining a robust project pipeline. It is critical that all funds – both from BIL and the base tribal set-aside programs – are used in a timely and expeditious manner. At the same time, effective projects that provide enduring and integrated solutions to the needs are necessary to transforming water infrastructure.

***Timing:*** Regions are strongly encouraged to obligate funds in an effective and timely manner. The Office of Mission Support (OMS), Office of Grants and Debarment (OGD) Interagency Agreement Shared Service Center (IASSC) requests that all FY 2022 funded Interagency Agreements (IAs) with IHS be submitted prior to July 29, 2022. Funds not obligated under an interagency agreement or a direct grant by September 30, 2023, are potentially subject to reallocation to different EPA Regions.<sup>1</sup>

## **Section 2: CWISA Program and Specific Allocations**

### ***Clean Water Tribal BIL General Supplemental***

The BIL appropriation requires “... up to a total of 2 percent of the funds appropriated [through the Clean Water State Revolving Fund], or \$30,000,000, whichever is greater...” be dedicated to the CWISA Program. Therefore, the FY 2022 CWISA BIL General Supplemental amount is \$38,040,000. (Note that the FY 2022 Consolidated Appropriations Act CWISA funds are excluded from this memorandum.)

EPA will distribute the CWISA BIL General Supplemental funding using the existing allocation procedures described in EPA’s [2015 CWISA Program Guidance](#). The amount of CWISA BIL Tribal General Supplemental funding available to an EPA Region will be based on its percentage of tribal wastewater (sewer) needs identified in the IHS Sanitary Deficiency System (SDS) database for each of the 12 IHS areas.<sup>2</sup> Table 3 lists the FY 2022 CWISA BIL General Supplemental funding amounts allocated to the EPA Regions based on the percent of wastewater (sewer) need identified in each of the 12 IHS areas. EPA will release the specific BIL Tribal allocations for each EPA Region for FY 2023 through FY 2026 following IHS’s annual updates to the SDS.

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<sup>1</sup> Any IA packages submitted after September 30, 2023, will not be processed without a Special Handling Memo from the regional Project Officer’s (PO’s) Senior Resource Official (SRO).

<sup>2</sup> The IHS SDS database maintains an inventory of sanitation deficiencies and projects to address those deficiencies for new and existing Indian homes and communities. As described in the CWISA Guidance, Regions are to identify projects based on the IHS SDS priority lists. The 24 SDS lists were provided electronically on January 7th, 2022, are also posted to the CWISA SharePoint site ([here](#)), and are available upon request. Regions are to also consult the previously provided "Information Requirements for Implementing the Clean Water Indian Set-Aside Program Guidance Summary" which identifies the project level details to be provided by each Region such that funds may be reprogrammed to each Region.

**Table 3: FY 2022 Clean Water Indian Set-Aside General Supplemental BIL Allocations by IHS Area**

IHS Area	Applicable EPA Region	Sewer Need <sup>1</sup>	Percent of the Total Sewer Need <sup>2</sup>	FY 2022 CWISA BIL Funding Level <sup>3</sup>
Albuquerque	6 & 8	\$ 23,698,600	6.2%	\$ 2,373,000
Anchorage	10	\$ 128,290,047	33.8%	\$ 12,846,000
Bemidji	5	\$ 22,366,330	5.9%	\$ 2,240,000
Billings	8	\$ 4,388,414	1.2%	\$ 439,000
California	9	\$ 53,747,215	14.1%	\$ 5,382,000
Great Plains	7 & 8	\$ 49,216,774	13.0%	\$ 4,928,000
Navajo	9	\$ 48,733,683	12.8%	\$ 4,880,000
Nashville	1, 2, 4 & 6	\$ 1,101,200	0.3%	\$ 110,000
Oklahoma	6 & 7	\$ 16,489,261	4.3%	\$ 1,651,000
Phoenix	8 & 9	\$ 13,531,504	3.6%	\$ 1,355,000
Portland	10	\$ 15,737,582	4.1%	\$ 1,576,000
Tucson	9	\$ 2,587,200	0.7%	\$ 260,000
<b>Total</b>		<b>\$ 379,887,810</b>	<b>100.0%</b>	<b>\$ 38,040,000</b>

1. Sewer need based on the IHS SDS feasible need [“Snapshot – 2022 – IHS National (#19972 11/16/21”)]

2. % Total Need is determined using the following calculation:  $[(\text{Sewer Need})/(\text{Total Sewer Needs or } \$379,887,810)] \times 100\%$ .

3. FY 2022 CWISA BIL Funding = Percent of the Total Sewer Need x Total CWISA BIL Funding or \$38,040,000.

EPA HQ and Regions will continue to administer the CWISA funding, including BIL General Supplemental funds, in close cooperation with the IHS Sanitation Facilities Construction Program.

Please reference EPA’s [2015 CWISA Program Guidance](#) for additional information about CWISA Program implementation.

In addition to the CWISA BIL General Supplemental funding amounts listed in Table 3, each Region will be allocated CWISA funding through the FY 2022 Consolidated Appropriations Act. These allocations are provided in a separate memorandum.

### ***CWISA Emerging Contaminants Funding***

The BIL provides \$1 billion through the CWSRF to address emerging contaminants, in wastewater. After applying the two percent to this specific use appropriation, the CWISA Program is allocated \$2 million of emerging contaminant funds for tribes in FY 2022 (see Table 2 for the amounts estimated for FY 2023 through 2026). Appendix B of the March 8, 2022, *BIL SRF Implementation Memo* provides the CWSRF definition for emerging contaminants which also applies to the CWISA BIL emerging contaminants funding.

**Eligible Use of Funds:** BIL states that “funds provided under this paragraph in this Act shall be for eligible uses under section 603(c) of the Federal Water Pollution Control Act that address emerging contaminants.” Section 518 of the CWA states that monies will be used “...for the development of waste treatment management plans and for the construction of sewage treatment



works to serve tribes...” CWISA eligible activities include project planning and design, infrastructure construction, and project oversight.

EPA recognizes that information about the presence and extent of emerging contaminants might be limited for tribal wastewater utilities. Regions are encouraged to focus on the identification of emerging contaminants and supporting preliminary engineering activities that will lead to a well-scoped and ready-to-fund projects in future fiscal years of this program. Costs associated with planning and design that may be funded include: (1) Preparation of a preliminary engineering report (PER); (2) Development of planning and design documentation including collection of necessary data; and (3) Travel costs associated with planning and design, site inspections, and construction administration.

The IHS SDS prioritization system has not previously focused on emerging contaminants in wastewater, and EPA is currently assessing the best programmatic approaches and procedures to support tribal clean water emerging contaminants projects. As such, the FY 2022 CWISA BIL emerging contaminants funding of \$2 million will not be immediately allocated to the Regions. Instead, Regions may request reprogramming of funding to add an eligible emerging contaminants project to FY 2022 Interagency Agreements with IHS or in direct grants to tribes. Regions are encouraged to work with their IHS areas or directly with tribes to determine if selected projects for FY 2022 CWISA funding should include emerging contaminants project elements. If applicable, Regions should reach out to the CWISA contact, Matthew Richardson ([richardson.matthew@epa.gov](mailto:richardson.matthew@epa.gov); (202) 564-2947), to reprogram emerging contaminants funds for use in the Region. Regions can also work with tribes and IHS areas for clean water emerging contaminants stand-alone projects that meet the BIL CWSRF eligibility requirements under the CWISA program. EPA may also use transfer authorities discussed in Section 1.

Additional information on EPA’s approach for the FY 2023 through FY 2026 CWISA emerging contaminants will be provided following evaluation of FY 2022 fund utilization.

### ***Clean Water Tribal Technical Assistance***

Several potential funding sources are available for tribes to access training and technical assistance (TTA) for the CWISA program and the tribal clean water emerging contaminants program. TTA for CWISA is available through IHS Areas, through an Interagency Agreement between EPA and IHS. Since 2017, EPA’s appropriations have included a provision that up to \$2 million of CWISA funds could be used for technical assistance, training and educational programs related to the operation and management of the treatment works. Regional EPA staff can connect tribes to this TTA via their IHS colleagues and/or tribes can reach out directly to their IHS Areas. Tribes also have the option to pursue the SRF state-issued TTA funds, as described in the BIL SRF Implementation Memo. Regional staff can work with their tribes and states to determine availability of TTA and/or tribal communities can work directly with the SRFs to determine access to this support. Tribes may also work with EPA recipients of TTA cooperative agreements for rural, small, and tribal communities. This includes the new clean water [Training and Technical Assistance for Small Wastewater Systems funding](#) authorized under the American Water Infrastructure Act of 2018. EPA also provides grant funds to the State of [Alaska for the Alaska Rural and Native Village \(ANV\) Program](#) to fund water and wastewater TTA to the Alaskan Remote Maintenance Worker (RMW) and the Rural Utility Business Advisor (RUBA) programs.



### Section 3: DWIG-TSA Program and Specific Allocations

#### *DWIG-TSA General Supplemental BIL Allocations*

The BIL appropriation requires “up to a total of 2 percent of the funds appropriated [through the Drinking Water State Revolving Fund], or \$20,000,000, whichever is greater...” be set-aside for funding to tribes. The FY 2022 Drinking Water Tribal BIL General Supplemental amount is \$38,040,000. (Note that the FY 2022 Consolidated Appropriations Act DWIG-TSA funds are excluded from this memorandum.)

EPA will use the existing DWIG-TSA allocation formulas for all FY 2022 BIL DWIG-TSA appropriations as described in EPA’s [2013 DWIG-TSA Program Guidance](#). For future FYs, this formula is scheduled to be updated with new data derived from the ongoing Seventh Drinking Water Needs Survey and Assessment (DWINSA) and from annual releases of IHS SDS data. Additionally, EPA has conducted tribal consultation to inform potential revisions to the DWIG-TSA allocation formula for use in FY 2023 and future funding. FY 2022 BIL DWIG-TSA allocation amounts for EPA Regions are listed in Table 4.

**Table 4: FY 2022 Drinking Water Infrastructure Grant Tribal Set-Aside General Supplemental Funding BIL Allocations by Region**

EPA Region	FY 2022 DWIG-TSA BIL Base Supplemental Funding Level	FY 2022 DWIG-TSA BIL Base Supplemental Funding Percentage
<b>Region 1</b>	\$ 788,000	2.1%
<b>Region 2</b>	\$ 2,059,000	5.4%
<b>Region 3</b>	\$ 761,000	2.0%
<b>Region 4</b>	\$ 983,000	2.6%
<b>Region 5</b>	\$ 1,976,000	5.2%
<b>Region 6</b>	\$ 3,531,000	9.3%
<b>Region 7</b>	\$ 1,290,000	3.4%
<b>Region 8</b>	\$ 4,869,000	12.8%
<b>Region 9 (includes Navajo Nation)</b>	\$ 11,850,000	31.2%
<b>Region 10 (includes ANVs)</b>	\$ 9,933,000	26.1%
<b>Total</b>	\$ 38,040,000	<b>100.0%</b>

EPA will administer safe drinking water BIL General Supplemental funds under the DWIG-TSA program and in continued close cooperation with the IHS Sanitation Facilities Construction Program. All DWIG-TSA eligible projects and activities, as defined in the [2013 DWIG-TSA Program Guidance](#), may be funded from this appropriation. Regions are encouraged to make extensive use of IHS SDS project prioritization and the co-funding opportunities it provides. Projects not traditionally captured by the process used to develop the IHS SDS list, such as lead service line and emerging contaminant projects, will be solicited through the Regions, as described below.

The technical capacity of utilities to operate and maintain existing facilities and new facilities funded under the BIL is paramount to sustaining public health protections. The Safe Drinking Water Act (SDWA) Section 1452(a)(3)(A) established project funding requirements for technical, managerial, and financial capacities, in addition to significant non-compliance, that are addressed through threshold indicators in the national DWIG-TSA Guidance and continue to apply. The Water Infrastructure Improvements for the Nation (WIIN) Act provided the DWIG-TSA with flexibilities to fund “intertribal consortia or tribal organizations for the purpose of providing operations and maintenance training and operator certification services to Indian Tribes to achieve and maintain compliance with applicable national primary drinking water regulations.”<sup>3</sup> These flexibilities, along with the [2017 memorandum](#) directing their use, remain with the DWIG-TSA General Supplemental funding under the BIL. Operation and maintenance activities remain ineligible for all tribal set-aside funding under the BIL.

### ***Drinking Water Emerging Contaminants Funding***

The BIL provides \$4 billion through the DWSRF to reduce human exposure to PFAS and other emerging contaminants through drinking water. The DWIG-TSA program is allocated \$16 million of these funds for tribes each year, beginning in FY 2022 and ending in FY 2026. Table 5 lists the allocations of FY 2022 DWIG-TSA BIL Emerging Contaminants funding.

EPA will coordinate with other federal agencies and funding programs, such as IHS, Bureau of Reclamation, Department of Agriculture, and others, to consider co-funding opportunities, including through additional EPA funding sources, such as the BIL Emerging Contaminants grant for small and disadvantaged communities.

**Table 5: FY 2022 Drinking Water Infrastructure Grant Tribal Set-Aside Emerging Contaminants BIL Funding Allocations by Region**

EPA Region	FY 2022 DWIG-TSA BIL Emerging Contaminants Supplemental Funding Level	FY 2022 DWIG-TSA BIL Emerging Contaminants Supplemental Funding Percentage
<b>Region 1</b>	\$ 332,000	2.1%
<b>Region 2</b>	\$ 866,000	5.4%
<b>Region 3</b>	\$ 320,000	2.0%
<b>Region 4</b>	\$ 414,000	2.6%
<b>Region 5</b>	\$ 831,000	5.2%
<b>Region 6</b>	\$ 1,485,000	9.3%
<b>Region 7</b>	\$ 542,000	3.4%
<b>Region 8</b>	\$ 2,048,000	12.8%
<b>Region 9 (includes Navajo Nation)</b>	\$ 4,984,000	31.2%
<b>Region 10 (includes ANVs)</b>	\$ 4,178,000	26.1%
<b>Total</b>	<b>\$ 16,000,000</b>	<b>100.0%</b>

<sup>3</sup> 42 U.S.C. 300j-12 (1)(5)(A)

**Eligible Use of Funds:** BIL states that “funds provided under this paragraph in this Act shall be to address emerging contaminants in drinking water with a focus on perfluoroalkyl and polyfluoroalkyl substances through capitalization grants under section 1452(t) of the Safe Drinking Water Act for the purposes described in section 1452(a)(2)(G) of such Act.”

Under this appropriation, projects must be otherwise DWIG-TSA eligible, and the primary purpose must be to address emerging contaminants in drinking water. Given the clear Congressional intent that these funds be focused on PFAS, Regions should actively seek PFAS-focused projects. Regions, however, have the flexibility to fund projects for any contaminant listed in EPA’s [Contaminant Candidate Lists \(CCLs\)](#). For example, Regions may also consider using these funds to address perchlorate as well as contaminants that have higher levels of occurrence or increased health concerns. Tribal utilities may not have been extensively sampled to identify existence of emerging contaminants on the CCL, and Regions are encouraged to focus first-year funds on projects to identify contaminants and supporting preliminary engineering activities that will lead to well-scoped and ready-to-fund projects in the future fiscal years of this program.

Projects with a primary purpose to address a contaminant for which EPA has promulgated a [National Primary Drinking Water Regulation \(NPDWR\)](#) are not eligible for funding under this appropriation, with the exception of PFAS as explained below. For example, a project whose primary purpose is to address arsenic or nitrate in drinking water is not eligible because arsenic and nitrate are regulated under the NPDWRs. These projects may be eligible for funding under the DWIG-TSA Base or General Supplemental appropriations.

EPA expects to establish an [NPDWR](#) for PFOA and PFOS, two individual PFAS compounds. The Agency is also evaluating additional PFAS and groups of PFAS. Given stated Congressional intent of this appropriation, PFAS-focused projects will be eligible for funding under this appropriation regardless of whether EPA has established an NPDWR for that particular PFAS or group of PFAS.<sup>4</sup>

Additional information on the BIL Emerging Contaminants funding, with examples of eligible projects and activities to be funded under this DWIG-TSA appropriation, can be found in the [BIL SRF Implementation Memo](#).

### ***DWIG-TSA Lead Service Line Replacement***

The BIL contains a historic \$15 billion in dedicated funding through the DWSRF appropriation for lead service line identification and replacement. The DWIG-TSA program is allocated \$60 million of these lead service line replacement funds for tribes each year, beginning in FY 2022 and ending in FY 2026. Table 6 lists the regional allocations of FY 2022 DWIG-TSA BIL Lead Service Line Replacement funding.

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<sup>4</sup> More information on PFAS is located here: <https://www.epa.gov/pfas> and <https://www.epa.gov/sdwa/and-polyfluoroalkyl-substances-pfas>.

**Table 6: FY 2022 Drinking Water Infrastructure Grant Tribal Set-Aside Funding  
Lead Service Line Replacement BIL Allocations by Region**

EPA Region	FY 2022 DWIG-TSA Lead Service Line Replacement Supplemental Funding Level	FY 2022 DWIG-TSA Lead Service Line Replacement Supplemental Funding Percentage
<b>Region 1</b>	\$ 1,243,000	2.1%
<b>Region 2</b>	\$ 3,248,000	5.4%
<b>Region 3</b>	\$ 1,200,000	2.0%
<b>Region 4</b>	\$ 1,550,000	2.6%
<b>Region 5</b>	\$ 3,116,000	5.2%
<b>Region 6</b>	\$ 5,569,000	9.3%
<b>Region 7</b>	\$ 2,034,000	3.4%
<b>Region 8</b>	\$ 7,680,000	12.8%
<b>Region 9 (includes Navajo Nation)</b>	\$ 18,691,000	31.2%
<b>Region 10 (includes ANVs)</b>	\$ 15,669,000	26.1%
<b>Total</b>	\$ <b>60,000,000</b>	<b>100.0%</b>

**Eligible Use of Funds:** The BIL states that “the funds provided under this paragraph in this Act shall be for lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead service lines.”

Projects or activities eligible for funding under this appropriation must be otherwise DWIG-TSA eligible and be a lead service line replacement project or associated activity directly connected to the identification, planning, design, or replacement of lead service lines. Any project funded under this appropriation involving the replacement of a lead service line must replace the entire lead service line, not just a portion, unless one portion has already been replaced or is concurrently being replaced with another funding source. Information on the presence and location of lead service lines may not be readily available to many tribes, utilities, and Regions. Regions are encouraged to focus on service line inventories leading to identification of lead service lines and support for preliminary engineering activities that will lead to well-scoped and ready-to-fund lead service line replacement projects in future fiscal years of this program.

To define a “lead service line” for the purpose of this appropriation, EPA will use an amended version of the [Lead and Copper Rule Revisions](#)’ regulatory definition, which is:

*...a service line made of lead, which connects the water main to the building inlet. A lead service line may be owned by the water system, owned by the property owner, or both. For the purposes of this subpart, a galvanized service line is considered a lead service line if it ever was or is currently downstream of any lead service line or service line of unknown material. If the only lead piping serving the home or building is a lead gooseneck, pigtail, or connector, and it is not a galvanized service line that is considered an LSL the service line is not a lead service line.*

EPA has expanded the eligible uses beyond the definition above to also include the replacement of lead-containing goosenecks, pigtails, and connectors as eligible expenses, whether standalone or connected to a lead service line.<sup>5</sup>

Corrosion control studies, corrosion control infrastructure, and water meters are not eligible under this appropriation, but are eligible under the DWIG-TSA base program and BIL General Supplemental funding. Consistent with the base DWIG-TSA program, funding for bottled water and premise plumbing are not eligible activities under this appropriation. Regions should include mitigation measures in the design of lead service line replacement projects such as, temporary pitcher filters or point-of-use (POU) devices certified by an American National Standards Institute accredited certifier to reduce lead concentrations in drinking water during or for a short time period after lead service line replacement projects. Such mitigation measures are eligible activities for DWIG-TSA funds. Additional information on BIL lead service line replacement funding, with examples of eligible projects and activities to be funded under this DWIG-TSA appropriation, can be found in the [BIL SRF Implementation Memo](#).

### ***DWIG-TSA Technical Assistance***

EPA Regions can support capacity development in tribal public water systems using technical assistance provisions through several programs. Regions with direct implementation responsibilities should continue to provide technical assistance through the [Tribal Public Water Systems Supervision](#) program. Regardless of primacy agency, Regions can also support and provide technical assistance through the [Small, Underserved and Disadvantaged Communities Grant Program](#) (see [Tribal Assistance program guidance](#)) and through flexibilities in SDWA allowing support for operations and maintenance training and operator certification through tribes and tribal consortia under the [DWIG-TSA program](#). The [TTA for Small Systems Funding program](#) also provides opportunities for tribal technical assistance. Support for tribes under these programs is conveyed by a variety of organizations including the IHS, the Rural Community Assistance Partnership network, Environmental Finance Centers, Tribal Consortia and more. These programs help tribal utilities develop and maintain sustainable operations and help ensure compliance with provisions of the NPDWRs.

Additionally, EPA provides a grant to the State of Alaska through the Alaska Rural and Native Village Program that provides water and wastewater training and technical assistance through the Alaskan Remote Maintenance Worker (RMW) and the Rural Utility Business Advisor (RUBA) programs. Regions are encouraged to review the 2007 report, [Tribal Access Workgroup Report: Strategies for Improving Technical Assistance Delivery in American Indian and Alaska Native Communities](#), and ensure coordinated support from the many programs that provide technical assistance to tribal utilities. Many tribal utilities struggle to maintain a workforce and achieve operator certification requirements. A 2019 report [Building the Tribal Water Workforce of the Future: Key Findings from the 2019 Tribal Workforce Workgroup](#), highlights workgroup findings and provides strategies for ensuring a well-qualified workforce and EPA's [Tribal Drinking Water Certification Program](#) provides resources and guidance to help ensure operators are certified to the appropriate level.

## **Section 4: Oversight**

To fulfill EPA's critical programmatic and fiduciary oversight responsibilities for the tribal set-aside programs, Regions will provide oversight of the BIL funds. BIL funds must be tracked and monitored

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<sup>5</sup> [https://www.epa.gov/system/files/documents/2022-03/combined\\_srf-implementation-memo\\_final\\_03.2022.pdf](https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf)

separately. While the additional fund sources under the BIL do increase the need for oversight and separate tracking of funding and expenditures, Regions are encouraged to consider leveraging multiple funding sources and co-funding were needed to fully address project financing needs. For additional information on oversight responsibilities, see the [2015 CWISA Program Guidance](#) and the [2013 DWIG-TSA Program Guidance](#).

## **Section 5: Conclusion**

EPA has a long history of working collaboratively with tribal governments, tribal utilities, and tribal members to ensure sustainable and resilient access to safe drinking water and basic sanitation. To maximize the impact the of BIL funds toward this goal, EPA encourages Regions to focus on the key priorities outlined in this implementation memo. EPA is committed to continuous engagement on the implementation of the BIL funds for the benefit of tribal communities.

If you have any questions concerning the contents of the CWISA components of this memorandum, you may contact Matthew Richardson at [richardson.matthew@epa.gov](mailto:richardson.matthew@epa.gov) or (202) 564-2947. If you have any questions concerning the contents of the DWIG-TSA components of this memorandum, you may contact Sam Russell at [russell.sam@epa.gov](mailto:russell.sam@epa.gov) or (202) 564-4012.