

**NEW MEXICO  
CLEAN WATER STATE REVOLVING FUND  
INTENDED USE PLAN FOR  
BASE FUNDING, INFRASTRUCTURE INVESTMENT AND JOBS  
ACT, AND EMERGING CONTAMINANT FUNDING  
STATE FISCAL YEAR 2025**

June 30, 2024

Revised October 28, 2024, for EC Time Extension

Revised December 2, 2024

April 7, 2025

U.S. Environmental Protection Agency-Region 6  
Water Quality Protection Division  
SRF & Project Section (6WQ-AP)  
1201 Elm Street  
Suite 500  
Dallas, Texas 75270-2102

Submitted by:  
New Mexico Environment Department  
Water Protection Division, Construction Programs Bureau  
P.O. Box 5469  
Santa Fe, New Mexico 87505-5469

Contacts:  
Rhonda Holderman, NMED CPB Financial Manager  
505-469-3365  
Dennis Romero, P.E., NMED CPB Bureau Chief  
505-470-6385  
Email: [NMENV-cpbinfo@state.nm.us](mailto:NMENV-cpbinfo@state.nm.us)



## Table of Contents

I.	FUND ESTABLISHMENT-INSTRUMENTALITY OF THE STATE, Clean Water Act 33 USC §1383 (a) and (b) .....	2
II.	FUND GOALS, Clean Water Act 33 USC §1386 (c)(2).....	3
III.	PLAN FOR THE USE OF CWSRF FUND 12100 .....	6
IV.	STATE MATCH 33 USC §1382 (b).....	7
V.	PROGRAM ADMINISTRATION .....	8
VI.	CASH DRAWS AND BINDING COMMITMENTS .....	8
VII.	ASSURANCE AND SPECIFIC PROPOSALS Clean Water Act 33 USC §1386 (c) (4)9	
VIII.	CRITERIA AND METHOD ESTABLISHED FOR DISTRIBUTION OF FUNDS, Clean Water Act 33 USC §1386 (c)(5).....	12
IX.	ADDITIONAL REQUIREMENTS .....	14
X.	ELIGIBLE PROJECTS TO BE FUNDED, Clean Water Act 33 USC §1386 (c)(1).....	15
XI.	GREEN PROJECT RESERVE .....	15
XII.	ADDITIONAL SUBSIDY .....	16
XIII.	RESPONSE TO PERFORMANCE EVALUATION REPORT AND AUDIT FINDINGS	17

### ATTACHMENTS:

- Table 1 Cash Flow Projections Graph
- Table 2 Project Priority List

## **I. FUND ESTABLISHMENT-INSTRUMENTALITY OF THE STATE, Clean Water Act 33 USC §1383 (a) and (b)**

The New Mexico Legislature created a revolving loan fund (Fund) through enactment of the Wastewater Facility Construction Loan Act (Loan Act), Chapter 74, Article 6A, New Mexico Statutes Annotated (NMSA) 1978, as amended. The purpose of the Loan Act “is to provide state agencies, local authorities, interstate agencies and other qualified borrowers in New Mexico with low-cost financial assistance in the construction of necessary wastewater facilities and other eligible projects through the creation of a self-sustaining program so as to improve and protect water quality and public health” §74-6A-2 NMSA (1978).

The Fund is administered by the New Mexico Environment Department Construction Programs Bureau (NMED CPB) as agent for the Water Quality Control Commission (WQCC). State money is appropriated to NMED CPB to carry out the provisions of the Loan Act and is used to match Federal funds allocated to New Mexico pursuant to the Federal Water Pollution Control Act, also known as the Clean Water Act (CWA). Federal capitalization grants, loan principal, and interest repayments as well as interest earnings on the Fund balance are deposited into the Fund. Administrative fee and refinance fee revenues are deposited into a separate dedicated Clean Water Administrative Fund.

The WQCC is New Mexico’s water pollution control agency and has adopted regulations, application procedures, and a project priority ranking system pursuant to the Loan Act, used by NMED CPB in administering the loan program. The New Mexico Water Quality Act §74-6-4 NMSA (1978) identifies the duties and powers of the WQCC related to loans and grants. The provision states:

“The Commission:

- A. may accept and supervise the administration of loans and grants from the federal government and from other sources, public or private, which loans and grants shall not be expended for other than the purposes for which provided;”

This document will provide information regarding the intended uses of the Clean Water State Revolving Fund annual capitalization grant (Base), the Infrastructure Investment and Jobs Act (IIJA) general supplemental funding (Supplemental), and the IIJA emerging contaminants funding (EC).

## **II. FUND GOALS, Clean Water Act 33 USC §1386 (c)(2)**

### **A. Long-term Goals for State Fiscal Year 2025:**

1. Provide local authorities, state agencies, interstate agencies and other qualified borrowers in New Mexico with low-cost financial assistance for the construction of wastewater facilities or other eligible water quality projects.
2. Maintain the CWSRF into perpetuity by managing fund outputs and including repayment and investment interest.
3. Maintain the fiscal integrity of the CWSRF by complying with state and federal financial management, accounting, auditing, and reporting requirements.
4. On an annual basis, meet the goal of 10% Green Project Reserve (GPR) for each funding allotment by promoting funding opportunities for eligible projects that support energy efficiency, water efficiency, green infrastructure, and environmental innovation.
5. Incorporate the IJA funding into the existing program.
6. Annually provide all available additional subsidy to eligible entities with an emphasis on those entities that meet the affordability criteria.
7. Pursue funding scenarios as afforded by state statute to fully maximize lending opportunities.
8. Evaluate possible reclassification of two technical staff vacancies and/or fill vacancies in SFY2026.
9. Develop continuing education credit and video content about the CWSRF program intended to reach operators, finance managers, engineers, elected officials, and other stakeholders. SFY2026
10. Prepare a plan to improve website for CWSRF with the aim to implement the plan in SFY2026.

## **B. Short-term Goals for State Fiscal Year 2025:**

1. Complete the annual audit, intended use plan and annual report in a timely manner pursuant to CWA 33 USC §1386 (b)(c)(d).
2. Apply for available federal allotments as follows:
  - a. FFY 2024 IJA General Supplemental no later than August 1, 2024.
  - b. FFY 2024 CWSRF Base capitalization grant no later than December 1, 2024
  - c. FFY 2024 IJA Emerging Contaminants no later than February 28, 2025
3. Identify applicants that meet the state's affordability criteria.
4. Identify applicants from the SFY 2025 project priority list (PPL) to receive funding, including additional subsidization from all current funding sources. Award all available additional subsidy.
5. Identify green projects equal to no less than 10% of each funding allotment.
6. Meet quarterly with NMED compliance staff to identify potential projects to benefit human health and water quality. March 1, 2025
7. Complete the environmental benefits in the Clean Water Benefits Reporting System (CBR) quarterly.
8. Maintain or improve the State's average of financial indicators that are reported and compiled in the National Information Management System (NIMS).
  - a. Specifically focus on the disbursement ratio by:
    - i. Discussing disbursement pace during project kick-off meetings, ongoing
    - ii. Increasing tech staff and financial staff communication with borrowers
      1. Ensure monthly check-in at a minimum-January 1, 2025
      2. Create tracking/note repository in LGTS-February 1, 2025
    - iii. Ensuring disbursements requests are submitted within 45 days of the liability being incurred. March 1, 2025.
9. Execute binding commitments as required by each grant. IJA General Supplemental and the CWSRF Base requires 120%, and Emerging Contaminants requires 100%.
10. Execute binding commitments for projected repayment principal, repayment interest, and overnight interest by January 1, 2025.

11. Execute binding commitments for the remaining cash by June 30, 2025.
12. Updates the Project Priority List quarterly, ongoing.
13. Implement change in award of additional subsidization for eligible projects from grants to principal forgiveness to lessen the federal requirement burden on funding recipients by January 1, 2025.
14. Address timely and expeditious concerns through marketing outreach:
  - a. Implement a solicitation schedule beginning January 1, 2025.
  - b. Utilize Google Search and Ad services so the NM CWSRF is the first search result. February 1, 2025.
  - c. Advertise on the home pages of the NM Council of Governments, the New Mexico Municipal League, New Mexico Rural Water Association due March 1, 2025.
  - d. Attend local conferences and present/host round tables on the CWSRF-ongoing.
  - e. Implement an Outreach Coordinator Field Plan—visiting eligible borrowers and hosting roundtables. First plan due March 1, 2025.
  - f. Establish monthly “office hours” call or meeting where financial and technical staff are available to answer communities’ questions about how to get funding for projects. March 1, 2025.
  - g. Develop “project pipeline” via consultation with regulatory bureaus within the NMED. Meet quarterly with Surface Water Quality, Ground Water Quality, Drinking Water and Solid Waste Bureaus to identify water systems, solid waste authorities and communities that are having difficulties meeting regulatory requirements. Focus outreach efforts on these entities with the potential for them to apply for funding. Meet quarterly with project pipeline team. March 1, 2025. This is in conjunction with IJA priorities.
15. Address timely and expeditious concerns through programmatic management:
  - a. Work with financial and technical staff to set disbursement goals with borrowers
    - i. Per current loan agreement, disbursements are due within 45 days of incurring liability; create tracking and monitoring methods, due by March 1, 2025.
    - ii. Roll the administrative work of the borrower into loan so borrower is incentivized to process disbursement requests in a timely manner—initiate by March 1, 2025

- b. Enhance funding requirements compliance assistance to streamline project development and delivery
    - i. Develop ease-of-use checklists and summary information for funding recipients before execution of binding commitments and after execution at project kickoff.
  - c. Develop self-certification form for A/E requirement. 03/01/2025
16. Vacancies
- a. Fill financial staff vacancies in SFY2025

### **III. PLAN FOR THE USE OF CWSRF FUND 12100**

As demonstrated in Figure 1 and in the Cash Flow projections in Table 1, NMED CPB has a growing cash balance. It is the goal of NMED CPB to fully utilize available resources. To achieve this goal NMED CPB lowered interest rates, beginning in FY2023, to 0.01% for all public borrowers that do not qualify for 0%. NMED CPB will maintain this interest rate for FY2025. Project and borrower eligibilities were broadened in previous years and NMED continues marketing efforts to convey this information. NMED CPB currently accepts applications year-round and uses a cloud-based communication platform to reach potential borrowers. NMED is contracting with Northbridge Environmental to assist in marketing the CWSRF in New Mexico. CPB also created a Marketing Coordinator position to market the CWSRF, provide outreach to communities, including those that meet the affordability criteria, and to provide training and education to potential borrowers. As in previous years, NMED CPB will conduct outreach through in person and virtual conferences, work with partners such as the New Mexico Municipal League, the Association of Counties, New Mexico Councils of Government and Economic Development Districts, New Mexico Rural Water Association, and the Rural Community Assistance Corporation to reach potential borrowers. The NMED CPB will explore other marketing and outreach avenues as they present themselves. The NMED CPB continues to pursue opportunities with New Mexico's largest communities, including Albuquerque-Bernalillo County Metropolitan Water Authority, and the cities of Las Cruces and Santa Fe. These communities have traditionally sold bonds to fund projects. It is our intent to show that with the low interest rate of 0.01%, these entities can achieve savings for their utilities and ultimately their rate payers. NMED CPB will continue these efforts and pursue other means to fully utilize and deploy the resources available through the CWSRF.

Figure 1 demonstrates the Fund's inflows and outflows. NMED CPB currently has four projects that have accepted offers and are in various stages of executing agreements and two projects where offers have been made and are pending the applicant's decision. The

Project Priority List includes \$206 million in projects but debt capacity for most of the projects is prohibitive.

<b>Figure 1</b>	
<b>Sources and Uses SFY 2025 04/04/2025</b>	
<b>Beginning Cash Balance July 1, 2024</b>	<b>\$201,724,701</b>
<b>Projected Sources during SFY 2023:</b>	
FFY 2024 Base Allotment	\$4,008,000
FFY 2024 Base Allotment State Match	\$801,600
FFY 2024 IJJA General Supplemental Allotment	\$11,164,000
FFY 2023 IJJA General Supplemental State Match	\$2,232,800
FFY 2023 IJJA Emerging Contaminants	\$1,043,000
FFY 2022 IJJA EC DWSRF Transfer	\$2,493,150
SFY 2024 Repayment Principal and Interest-Projected	\$14,195,147
SFY 2024 Interest on Investments-Projected	\$2,962,759
<b>Total Sources</b>	<b>\$240,625,157</b>
<b>Projected Uses</b>	
Budgeted Admin Expense from CWSRF Fund	\$697,600
Projected Disbursements for SFY 2025	\$45,133,159
Balance to be disbursed for active projects	\$82,749,188
Balance for projects that have accepted offers	\$178,887,911
<b>Total Projected Uses</b>	<b>\$307,467,858</b>

#### **IV. STATE MATCH 33 USC §1382 (b)**

The State of New Mexico has proposed, and EPA Region 6 has accepted, that NMED will expend all the required CWSRF state match funds prior to using the federal funds. Once the total required state match for each CWSRF capitalization grant, Base or IJJA, has been expended, the State will draw down the federal funds for each respective CWSRF capitalization grant.

During the 2024 Legislative Session held January 16, 2024, through February 15, 2024, the New Mexico Legislature appropriated \$5,000,000 through New Mexico capital outlay for state match funds for the FFY 2024 base allotment and IJJA General Supplemental allotment. The Emerging Contaminants allotment does not require a state match. NMED will receive the funds in late June or early July 2024 and then transfer to the CWSRF. This amount will be sufficient for both FFY2024 allotments. .



## V. PROGRAM ADMINISTRATION

Reasonable costs for administering the loan program are paid out of the loan fund in conformance with 33 USC 1383(d)(7) and 74-6A-4, NMSA 1978, as amended. NMED CPB uses one-fifth percent of the current valuation of the CWSRF fund for the costs of administering the fund. As of June 30, 2023, the audited valuation (Total Net Position) of the CWSRF fund was \$378,223,668 allowing \$756,447 to be used for administration of the program in SFY 2025. NMED CPB intends to utilize approximately \$697,600 in SFY 2025

Pursuant to Subsection C (1) and (2) of 20.7.5.14 NMAC the NMED CPB may assess an administrative fee not to exceed five percent of the total loan amount. The fee is variable, dependent upon the term and interest rate of the loan and is earned annually on the principal amount. The administrative fee is included in the interest rate charged to borrowers and does not add to the financial burden of the borrowers. This administrative fee is deposited into the Clean Water Administrative Fund (Admin Fund) and is budgeted and tracked separately from the Loan Fund. The fee serves to perpetuate the administration of the revolving loan fund with no fiscal impact on the State's general fund or any material impact on the financial strength of the fund itself. There will be no administrative fee applied to loans with an interest rate of 0.01%. In SFY 2025, the Admin Fund has the following activity projected:

<b>Admin Fund SFY 2025 Activity</b>	<b>Amount</b>
<b>Cash Balance beginning of as of July 1, 2024</b>	<b>\$5,011,303</b>
Estimated investment interest earned	\$96,785
Loan Administrative Fees anticipated to be collected in SFY 2025	\$268,483
Program operating expenses budgeted from Fund 32700 in SFY 2025	\$1,070,300
<b>Projected Balance end of SFY 2025</b>	<b>\$4,306,271</b>

The expenses budgeted for use in SFY 2025 from the Admin Fund will be used for eligible expenses and will be tracked for EPA's review and verification.

## VI. CASH DRAWS AND BINDING COMMITMENTS

**Binding Commitments:** 33 USC §1382 (b) (3). The State certifies binding commitment obligations of each grant awarded will be met. NMED CPB considers a commitment to be binding when the funding agreement is signed by both parties. This commitment will be met no later than 12 months after the payment date of the awarded grant.

**Method of Disbursement:** The method of disbursement for all capitalization grants is to expend 100% of the required state match and then expend all federal funds. NMED will disburse funds to borrowers before requesting capitalization grant draws.

Capitalization Grant Name	Payment Date	Cap Grant Amount	Match Amount	Total Amount for Binding Commitments	Required Binding Commitment Date, 12 months after Payment Date
FFY22 Emerging Contaminants	1/1/2025	\$2,952,150	\$0	\$2,952,150	12/31/2024
FFY23 Emerging Contaminants	3/1/2025	\$1,043,000	\$0	\$1,043,000	2/28/2026
FFY24 IJA General Supplemental	1/1/2025	\$11,164,000	\$2,232,800	\$13,396,800	12/31/2025
FFY24 CWSRF Base	3/1/2025	\$4,008,000	\$801,600	\$4,809,600	2/28/2026
FFY24 Emerging Contaminants	7/1/2025	\$1,043,000	\$0	\$1,043,000	6/30/2026
Totals		\$20,210,150	\$3,034,400	\$23,244,550	

## VII. ASSURANCE AND SPECIFIC PROPOSALS Clean Water Act 33 USC §1386 (c) (4)

**Agreement to Accept Payment:** 33 USC §1382 (b)(1) The State submits the following schedule for grant payments:

- FFY22 Emerging Contaminants: \$2,493,150 01/01/2025
- FFY23 IJA Emerging Contaminants: Full Amount 07/01/2025
- FFY23 IJA Supplemental: Full Amount 01/01/2025
- FFY23 CWSRF Base Capitalization Grant: Full Amount 04/01/2025
- FFY24 Emerging Contaminant: Full Amount 07/01/2025

**Timely Expenditures:** 33 USC §1382 (b) (4). The State certifies that it intends to expend all funds in an expeditious and timely manner. NMED shares the concern of the EPA with the lack of full utilization of the fund and will continue to work toward full utilization. NMED CPB has taken many steps to encourage use of the Fund:

- Amending state statute to broaden both project eligibilities and eligible borrowers.
- Amending statute to allow for 30-year repayments.
- Moved applications to a year-round cycle.
- Moved applications to an easy-to-use on-line platform
- Created and filled an Outreach Position within the Bureau.
- Modified the Affordability Criteria to increase affordability criteria eligibility.

- Engaged Northbridge Environmental for outreach and program guidance.
- Lowered interest rates multiple times with the current rate at 0.01% which will stay in effect through SFY 2025.

Additional initiatives to address timely expenditures are addressed in the short-term goals. In addition to the short-term goals, the NM CWSRF will pursue the following initiatives:

- Determine if interest charged during construction can be waived or set at 0%; a legal request has been submitted.
- To streamline the program for both internal and external users, review financial and technical aspects of the program for requirements that are:
  - Outdated
  - Not required
  - Overly burdensome
- Build Readiness to Proceed:
  - Bifurcate funding for planning and design
  - Lobby the legislature for 2-year planning and design appropriations that can then be used for CWSRF construction loans.
    - Revise standard operations procedures (SOPs) used by technical staff to have greater focus on supporting funding requirements compliance.
- Revise standard operations procedures (SOPs) used by technical staff to have greater focus on supporting funding requirements compliance.
- Craft an interest rate policy for the NM CWSRF that uses interest rate discounting as a tool to:
  - Incentivize readiness to proceed
  - Discount for high dollar projects
  - Discount for programmatic financing

**First Use of Funds for Enforceable Requirements:** 33 USC §1382 (b) (5). NMED CPB agrees that "all funds in the fund as a result of capitalization grants will first be used to assure maintenance of progress, as determined by the Governor, toward compliance with enforceable deadlines, goals, and requirements of the Act . . . "

**Eligible Treatment Works:** 33 USC §1382 (b) (6) eligible treatment works constructed in whole or in part with this assistance will meet the requirements of the National

Environmental Policy Act, pursuant to 33 USC §1371 (c)(1) and Davis-Bacon Labor Standards pursuant to 33 USC §1372.

**Procurement Assurances:** 33 USC §1382 (b) (14) The State certifies that all architectural and engineering (A/E) contracts for equivalency projects or projects awarded additional subsidy in the form of grant will comply with the elements of the procurement processes for A/E services as identified in 40 U.S.C. 1101 *et seq.* or the State equivalent.

**Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirement:** NMED CPB files a FFATA sub-award report by the end of the month following the month that a loan agreement greater than \$25,000 is signed. Prior to SFY2023, NMED CPB applied all federal requirements to all projects, however with the onset of the Build America Buy America Act, NMED CPB will apply all federal requirements to “equivalency” projects. NMED CPB has worked to clearly delineate the requirement categories, including the requirements for projects reported directly in FFATA. We will continue to work through and modify this process as needed to ensure borrowers and staff have appropriate guidance.

**Build America Buy America:** NMED CPB has reviewed the requirements of the Build America Buy America Act (BABA) and has language in the Assistance Agreement and the Technical documents to address the requirements, along with certification forms.

**Enhancing Public Awareness:** This requirement was applied to all borrowers prior to SFY 2023. Beginning in SFY 2023, and moving forward, this will be applied as an “equivalency” requirement only.

**Threat :** The NMED CWSRF supports fostering preparedness to natural and manmade threats and hazards. The Priority Ranking System includes awarding points for systems that have physical and cyber infrastructure threat and hazard mitigation plans. The NMED CWSRF also supports alternative energy sources that can lower costs for ratepayers. The NMED CWSRF has funded and is currently funding solar projects at WWTP’s providing less costly options for the utilities. This supports IJA priorities.

All other Certifications and Assurances, if not in this section or document, are in the current Operating Agreement.

## **VIII. CRITERIA AND METHOD ESTABLISHED FOR DISTRIBUTION OF FUNDS, Clean Water Act 33 USC §1386 (c)(5)**

Pursuant to the Loan Act, the WQCC adopted regulations describing eligibility requirements for financial assistance, application procedures, the priority ranking system and administration of the loan program and Fund. The current priority ranking system was adopted by the WQCC on September 8, 2020. NMED CPB staff, Ground Water Quality Bureau, and Surface Water Quality Bureau evaluate and rank eligible projects. (See Table 2, Project Priority List). All CWA §319 activities must implement the state's §319 Nonpoint Source Management Plan. Public notice of the Project Priority List (PPL) process is provided through a Press Release, by email to the CWSRF distribution list, on the NMED CPB website, through outreach to NM Councils of Governments and Economic Development Districts, the New Mexico Municipal League, the New Mexico Association of Counties, to the Rural Water Association, the Rural Community Assistance Corporation and to the New Mexico Department of Finance and Administrations Local Government Division section. NMED CPB accepted public comments at [The NMED PUBLIC COMMENT PORTAL](#) regarding the SFY 2025 PPL from June 10-21, 2024. Comments were also accepted online, by mail, email, or by phone. No comments were received.

Projects must be on the current New Mexico state fiscal year PPL or a previous priority list, to be eligible for funding. It is the policy of NMED CPB to make loans considering the following circumstances:

1. Willingness to accept a loan.
2. Financial capability of the community to service the loan.
3. The ability of the community to operate and maintain the proposed project.
4. Readiness to proceed.

In addition to the above considerations, NMED CPB evaluates applicants' ability to meet 33 USC §1383 (i) CWA, Affordability Criteria. NMED CPB utilizes 100% of available additional subsidization to make projects as affordable as possible.

The NMED may choose to bypass, or skip, higher ranking projects for projects that are lower ranked but meet the above stated criteria. Projects that are bypassed and can demonstrate they are actively working to meet the criteria may stay on the list to receive future funding. Applicants are encouraged to discuss projects and financials with the NMED CPB team members prior to application. The NMED CPB team will provide guidance regarding eligibility, program requirements, and project/financial readiness.

**Application to the CWSRF:** A CWSRF application must be completed. Applications may be submitted to the NMED electronically, by e-mail, over the phone, or by mail. NMED CPB will assist applicants to complete the application and to submit any documentation needed.

Pursuant to the Loan Act a loan shall be made for a period not to exceed thirty (30) years. The 30-year repayment term cannot exceed the useful life of the project. Documentation from the borrower must be provided to demonstrate the useful life of all construction projects.

The base interest rate for the CWSRF may be determined annually by the WQCC or the rate can be left unchanged. The base rate is the rate applied to eligible borrowers other than local authorities and state agencies. Local authorities encompass municipalities, counties, mutual domestic water consumers associations, water, and sanitation districts, and recognized Indian tribes, among others. Local authority interest rates and interest rate conditions are set by NMED in policy and reported to the WQCC at the beginning of each state fiscal year. Current policy sets the interest rate at 0.01% for all local authorities that do not qualify for 0%. Local authorities are eligible for a 0% rate when their per capita income (PCI) is less than 75% of the statewide average PCI and their wastewater system user rates are greater than 1.82% of the PCI. The interest rate for a state agency is the lowest interest rate above 0%.

Funding assistance may be offered as loan, loan/additional subsidy, or 100% additional subsidy. Additional subsidy is offered based on the applicants: 1. Affordability Criteria score, 2. Financial capability, and 3. Availability of subsidy. It is the intent of NMED to utilize additional subsidization to its fullest extent.

Loans are set up to be repaid in annual installments. Borrowers may prepay the loan or any portion of the loan at any time. No penalty is charged for prepayment of loan principal. NMED CPB prepares repayment schedules for the borrower. The first annual payment is due no later than one (1) year after completion of the project.

Cash flow models are prepared annually to review fund. Modeling allows NMED CPB to evaluate CWSRF's ability to make future loans. The State maintains the long-term health of the Fund by adding the repayment interest and investment interest to the revolving fund. NMED CPB does not plan on leveraging in SFY 2024.

**Affordability Criteria:** NMED evaluates affordability criteria for every applicant and awards 100% of the available additional subsidization. . The NMED CPB works collaboratively with the other state funding programs to maximize "grant" funding for

CWSRF customers who would not otherwise be able to afford critical infrastructure projects. Through this collaboration more projects get completed for fiscally challenged communities. NMED has also hired a Marketing and Outreach Coordinator to assist communities in applying and accessing CWSRF funding. The work the NMED CWSRF does with these communities is commensurate with the IJA program priorities.

**Continuity of Service:** The NMED CPB has added a question about hazard response and mitigation plans to the CWSRF application. In recent years, forest fires and burn scar flooding have devastated New Mexico. These issues are hard to fund because of the lack of a revenue stream. Other threat issues, such as bioterrorism defenses and cybersecurity, add to the cost of projects in a time where basic project costs are soaring. The NMED CPB will work to implement funding strategies to encourage projects that ensure continuity of service. NMED is currently funding multiple stormwater projects that have come about to address flooding due to increasingly severe monsoon seasons, Stormwater projects include the City of Santa Fe, the Middle Rio Grande Conservancy District, the City of Anthony, and the City of Hatch.

## **IX. ADDITIONAL REQUIREMENTS**

**2% Technical Assistance:** The IJA allows the CWSRF programs to utilize 2% of the capitalization grants to assist rural and small publicly owned treatment works. The NMED CPB has executed a Memorandum of Agreement with the University of New Mexico Environmental Finance Center for specific technical assistance tasks associated with assistance to rural and small entities. It is the intent of the NMED to provide technical assistance that includes review of preliminary engineering reports, technical memoranda, assistance with reviewing financial procedures and methodologies, including rate-setting, and community outreach. NMED will also explore providing technical assistance on the importance of asset management including fiscal sustainability plans and operating and maintaining the assets constructed with the CWSRF funds to ensure their future viability. This work coincides with IJA priorities.

**Federal Requirements:** In SFY 2023 NMED CPB transitioned from applying all federal requirements to all projects to a more deliberate approach. Equivalency projects are established through FFATA reporting. The Single Audit Act, Disadvantaged Business Enterprises (DBE), and Environmental Crosscutters are applied to all equivalency projects as well as all projects that receive additional subsidization, which is offered in the form of a grant in the New Mexico CWSRF. Additionally, NMED complies with Davis-Bacon wage rates, American Iron and Steel, and NEPA-like environmental review for all treatment work projects, and accordingly applies Environmental Crosscutters as part of the environmental

review process. The City of Santa Fe’s Wastewater Treatment Plant replacement project will serve as the equivalency project for NMED’s SFY 2025 PPL.

**SRF Data System:** NMED agrees to enter programmatic data into the National Information Data Base quarterly, at a minimum.

**CWSRF-DWSRF Fund Transfers:** Pursuant to Section 302 for the Safe Drinking Water Act, the State of New Mexico reserves the authority to transfer up to 33 percent of the CWSRF Capitalization Grant to the DWSRF, or an equivalent from the DWSRF to the CWSRF. New Mexico does not anticipate utilizing this authority in SFY 2025.

## **X. ELIGIBLE PROJECTS TO BE FUNDED, Clean Water Act 33 USC §1386 (c)(1)**

Table 2, Project Priority List contains a list of projects eligible for assistance pursuant to the CWA. The Project Priority List includes the applicant’s name, project description, appropriation being used, NPDES and or Groundwater permit number, affordability criteria eligibility.

**In accordance with §35.3555 CFR Intended Use Plan:**

New Mexico CWSRF reserves to the right to provide for the funding of projects that require immediate attention to protect public health on an emergency basis as declared by the Cabinet Secretary of the New Mexico Environment Department or by the Office of the Governor.

For emergency projects NMED CPB will accept applications and expeditiously rank and score the projects and evaluate available funding. If funding is available, an offer will be made, and public notice will be made on the next quarterly priority list.

## **XI. GREEN PROJECT RESERVE**

**Green Project Reserve (GPR):** Potentially green projects will count toward the specific allotments associated with the projects. NMED CPB has identified and noted potential Green Project Reserve (GPR) projects on the Project Priority List.

Green Project Reserve Requirements for SFY25 Grants	
Source	GPR Amount
CWSRF Base	\$363,300
CWSRF IJJA General Supplemental	\$1,023,300
CWSRF IJJA Emerging Contaminants	\$104,300
Total	\$1,490,900



NMED believes it will meet GPR requirements.

## **XII. ADDITIONAL SUBSIDY**

**Additional Subsidization:** The IJA, signed into law in November 2021, amended the CWA, and now mandates additional subsidization of at least 10% but not more than 30% of the base CWSRF capitalization grant. Additionally, the Base Appropriation has congressionally mandated additional subsidization of 10%, not subject to CWA restrictions. The IJA also mandates 49% of IJA General Supplemental capitalization grants be provided as additional subsidization. NMED CPB's goal is to provide the maximum amount of subsidy allowed by each capitalization grant to borrowers. Additional subsidization for both the base program and IJA funding (up to 30% and mandatory 49% respectively) can be awarded to communities that 1. meet the Affordability Criteria, 2. do not meet the Affordability Criteria but seek assistance for the benefit of a user rate class, or 3. for CWA defined alternative factors.

In SFY 2023, NMED CPB modified the Affordability Criteria system to broaden the applicability of the system to applicants and support IJA priorities. The system now awards points to any applicant that is considered rural or to any applicant that has lost population in the previous 5 years. Applicants with a per capita income of 80% or less of the national average are awarded points, and points are awarded if the unemployment rate for an area is above the national average. The Affordability Criteria System is on the NMED website at: <https://www.env.nm.gov/funding-opportunities/>

NMED CPB evaluates additional subsidization on a case-by-case basis for those projects that benefit an individual user rate class or implement sustainability factors, including water and/or energy efficiency goals, the mitigation of stormwater runoff, or that encourage sustainable project planning, design, and construction. The impact of additional subsidization on the future of the fund is evaluated annually.

The IJA also provides funding for Emerging Contaminants (EC). The EC capitalization grant is mandated to be awarded as 100% additional subsidy. NMED CPB has three signed EC projects: Bernalillo County Alameda Outfall, Bernalillo County Tijeras Creek, and Santa Fe County PFAS Investigation. The Alameda Outfall project is developed and has a project timeline through September 2027. The Tijeras Creek project is a study and assessment of ground and surface waters also with a projected timeline through September 2027. The scope of work for the Santa Fe County project is to sample, analyze, and model findings related to PFAS contamination; the initial contract for this work is still

being reviewed through the County governance process. NMED CPB expects this to have timelines for the Santa Fe County project like the other two projects.

NMED CPB currently has two EC grant awards:

FFY Allotted	Grant Number	Amount	Original Expiration	Requested Expiration
FFY2022	02F34201	\$2,952,150	06/30/2025	09/30/2027
FFY2023	02F34202	\$1,043,000	06/30/2027	N/A

The FFY2022 EC grant was originally for \$459,000. The NM DWSRF program had EC funding remaining from their allotment and transferred those funds to the NM CWSRF program.

NMED CPB has applied for the FFY2024 allotment, FFY2025 and FFY2026 EC allotments remain.

Source	Obligation	Award
FFY22 Emerging Contaminants		\$2,952,150
CWSRF EC 136-Alameda Outfall	\$1,452,150	
CWSRF EC 138-SF County	\$1,500,000	
	\$2,952,150	
FFY23 Emerging Contaminants		\$1,043,000
CWSRF EC 136-Alameda Outfall	\$312,444	
CWSRF EC 137-Tijeras Carnuel	\$325,000	
CWSRF EC 138- SF County Anticipated	\$405,556	
	\$1,043,000	
FFY24 Emerging Contaminants		\$1,043,000
CWSRF EC 138- SF County Anticipated	\$1,043,000	

### **XIII. RESPONSE TO PERFORMANCE EVALUATION REPORT AND AUDIT FINDINGS**

NMED CPB received a Performance Evaluation Review for SFY 2023 in February 2024 and the final report in October 2024. Below are the EPA recommendations and the NMED response.

*1. Intended Use Plan Recommendations The EPA R6 program would like the state to incorporate long- and short-term goals that address the new EPA SRF program priorities from the IJA and are calibrated toward resolving program challenges.*

This report addresses EPA R6 concerns regarding long- and short-term goals, addressing IJA priorities, and working towards resolving program challenges.

*2. Action Plan to Address Timely and Expeditious Use of Available SRF Funds Required Action: The EPA R6 requires that NMED develop an action plan to commit existing uncommitted funds in the SRF program (this includes federal capitalization grants, state match, repayments, and interest earnings) as well as new funds they will be receiving into signed final assistance agreements (e.g., loans) within one year of receipt. The plan should also include future actions aimed at improving disbursements and measurable goals. A draft action plan is requested for EPA review by December 2nd, 2024, and should be incorporated into your IUP as soon as possible.*

Short-term goals address immediate attention to timely and expeditious concerns with initiatives to be completed or put in place by the end of the state fiscal year, June 30, 2025. Long-term initiatives are also discussed in the *Assurances and Specific Proposals section* with the goal of implementing in state fiscal year 2026. The Sources and Uses table demonstrates utilizing funds through fully committing monies.

*3. Action Plan to Address Vacancies within NMED Required Action: In accordance with the OIG SRF Capacity Audit, the EPA R6 requires that NMED develop an action plan to fill the vacancies within the department. The plan should include a list of the current vacancies, strategies and goals for filling these vacancies, as well as possible alternatives. A draft action plan is requested for EPA review by December 2nd, 2024.*

Vacancies are addressed in the short- and long-term goal section.

**Final Notes:** NMED CPB is committed to transparency and accountability. Program information, Intended Use Plans, Annual Reports, and other program materials are posted on the NMED CPB website: <https://www.env.nm.gov/funding-opportunities/> An independent audit is conducted by an independent Certified Public Accounting firm annually. Project milestones and information are reported through EPA's Clean Water Benefits Reporting (CBR) database and the National Information Management System (NIMS).

NMED CPB respectfully submits this Intended Use Plan. If readers are viewing this report from the website, the SFY 2025 PPL is also available from the CPB's website: <https://www.env.nm.gov/funding-opportunities/>