



**COMMONWEALTH OF PUERTO RICO  
PUERTO RICO DEPARTMENT OF HEALTH**

**DRAFT**

**INTENDED USE PLAN 2023  
GENERAL SUPPLEMENTAL FUNDING  
FY 2023 DWSRF BIL**

**September 2024**

## TABLE OF CONTENTS

	<u>PAGE</u>
<b>1.0 INTRODUCTION</b>	<b>4</b>
1.1 Green Project .....	9
1.2 Davis Bacon Requirements.....	9
1.3 Reporting Requirements.....	10
1.3.1 Report to the Governor.....	10
1.3.2 Projects & Benefits Reporting.....	10
1.3.3 NIMS.....	10
1.3.4 Needs Survey.....	11
1.4 American Iron and Steel (AIS).....	11
1.5 Build America Buy America (BABA).....	12
1.6 Unliquidated Obligations.....	13
<b>2.0 SHORT AND LONG TERM GOALS</b>	<b>15</b>
2.1 Short Term Goals.....	15
2.2 Long Term Goals.....	16
<b>3.0 FINANCIAL STATUS/TOTAL DWSRF MONIES</b>	<b>17</b>
<b>4.0 TYPES OF PROJECTS TO BE FUNDED</b>	<b>22</b>
<b>5.0 FINANCIAL PLANNING PROCESS</b>	<b>23</b>
<b>6.0 TYPES OF ASSISTANCE AND FINANCIAL TERMS</b>	<b>24</b>
6.1 Direct Loans .....	24
6.2 Refinancing .....	24
6.3 Hardships Loans/Affordability Criteria for Disadvantaged Systems.....	25
6.4 Additional Subsidization.....	25
<b>7.0 SET-ASIDES ACTIVITIES</b>	<b>27</b>
7.1 Administrative Assistance.....	27
7.2 Technical Assistance .....	28
7.3 State Program Management.....	31
7.4.1 Operator Certification Program.....	31

7.4.2	Capacity Development Program .....	32
7.4	Special Activities Local Assistance and Other State Program Up to 15%	
	No More Than 10% Activity .....	32
7.4.1	Land Acquisition .....	33
7.4.2	Capacity Strategy .....	33
7.4.3	Source Water Petitions .....	33
<b>8.0</b>	<b>DISADVANTAGED COMMUNITY PROGRAM</b>	<b>35</b>
8.1	Definition of Disadvantaged Community .....	35
8.2	Affordability (Hardship/Disadvantaged System) Criteria .....	37
8.2.1	Affordability Criteria .....	37
8.2.2	Hardship Financial Assistance Criteria .....	37
8.2.3	Projects Likely to Received Additional Assistance Payments (Hardship List) .....	38
<b>9.0</b>	<b>PROJECT PRIORITY LIST</b>	<b>40</b>
9.1	Project Selection Process .....	40
9.2	Description and Use of Project List .....	41
9.3	State Environmental Review Process/Determination of Equivalency .....	45
<b>10.0</b>	<b>ATTACHMENTS and APPENDICES</b>	<b>46</b>

## **1.0 INTRODUCTION**

The Legislature of Puerto Rico enacted Act No. 32 of July 1997 and amended Act No. 5 through of Act No. 193 of December 26, 1997, which in conjunction with the passage of the 1996 Amendments to the Safe Drinking Water Act (SDWA) by Congress provides the Commonwealth with the authority to establish a Drinking Water Treatment Revolving Loan Fund (DWSRF) Program. On September 15, 1998, the DWSRF was initially capitalized with the funds from 1997 and 1998. The Department of Health (“DOH”) is lead Agency responsible for the administration of the DWSRF.

The Intended Use Plan (IUP) is the planning document for explaining how all DWSRF funds, including the federal fiscal year (FFY) 2023 General Supplemental allotment will be used. Through memorandum dated March 8, 2022, the Environmental Protection Agency (EPA) provides information and guidelines for “the implementation of the Bipartisan infrastructure Law of November 15, 2021 (hereinafter referred to as BIL), which includes new provisions applicable to the base DWSRF programs and, unless otherwise directed, are also applicable to projects funded in whole or in part with these funds. This implementation memorandum is expected to be applicable to all five years of BIL appropriations, from FY 2022 to FY 2026.” EPA will issue procedures during FYs 2023 through 2026 with allotment tables and any other necessary program updates. On April 3, 2023 EPA issued the corresponding memorandum. This law is an investment increase to strengthen the nation’s drinking water systems addressing urgent water challenges for all communities especially disadvantaged communities to replace lead service lines and address emerging contaminants along with a general supplemental provision. This IUP provides for the general supplemental funds information on how funds, available through the BIL, will be

used to provide financial assistance for drinking water projects and identifies the guidelines and policies applicable for funding award.

In addition to the AWIA, the Commonwealth of Puerto Rico (“the Commonwealth”) will use as guidance for this IUP, the BIL, and the “Consolidated Appropriations Act, 2023” (Consolidated Appropriation, 2023”) (Public Law 117-328), passed by Congress on December 29, 2022 and any applicable regulation established by the BIL.

DOH will undertake the public participation process as required by the SDWA in an effort to encourage the public in the application process by publishing the availability of the IUP for 30 days for review at our offices and/or webpage.

Under the BIL memorandum, there will be flexibility provided to states and borrowers to address a wide variety of local water quality and public health challenges. Thus, for borrowers, the SRFs remain a flexible source of capital that can be used in combination with additional funding sources to finance water infrastructure projects. With the general supplemental funding to both SRF’s, and creation of dedicated funding within the SRFs to tackle lead and emerging contaminants, states have a great deal of flexibility in program administration.

### ***BIL Program Changes***

Following are the flexibilities for the BIL SRF funding, including, but not limited to (1) program administration and processes, and (2) additional subsidy.

As it relates to **program administration and processes**, states have the flexibility to:

- Determine priorities and select projects.
- Combine Intended Use Plans (IUPs) and Project Priority Lists (PPLs) for both the BIL and base funding or submit separate IUPs and PPLs for both base and BIL funding.
- Apply for conditional or partial grants.

- Craft single assistance agreements (e.g., loans or grants) that contain multiple types of construction components and activities funded by multiple pots if the funds are tracked separately.
- Design and manage the application process.
- Take administrative funds from each funding stream.
- Transfer funds between programs to address state needs.
- Use recycled funds for any eligible purpose.
- Set interest rates and repayment terms.

As it relates to the **additional subsidy**, states have the flexibility to:

- Define disadvantaged community and affordability criteria in a manner that is consistent with the SDWA.
- Determine the amount of additional subsidization provided in each assistance agreement.

The summary of the BIL appropriations is as follows:

Table 1 – SUMMARY OF NATIONAL BIL APPROPRIATIONS FY 2023 THROUGH FY 2026						
Appropriation	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Five Year Total
DWSRF General Supplemental	\$1,902,000,000	<b>\$2,202,000,000</b>	\$2,403,000,000	\$2,603,000,000	\$2,603,000,000	<b>\$11,713,000,000</b>
DWSRF Emerging Contaminants	\$800,000,000	<b>\$800,000,000</b>	\$800,000,000	\$800,000,000	\$800,000,000	<b>\$4,000,000,000</b>
DWSRF Lead Service Line Replacement	\$3,000,000,000	<b>\$3,000,000,000</b>	\$3,000,000,000	\$3,000,000,000	\$3,000,000,000	<b>\$15,000,000,000</b>

The following table includes the amounts established in the allotment tables for the DWSRF Program, for the general supplemental dedicated funding, as assigned to the PRDWSRF:

GENERAL SUPPLEMENTAL BIPARTISAN INFRASTRUCTURE LAW (BIL) – DWSRF APPROPRIATION		
FY 2023 General Supplemental Funding	FY 2022 General Supplemental Funding	Total
\$21,055,000	\$17,992,000	\$39,047,000

The DOH has determined to prepare an IUP for the general supplemental funding and a combined one for the LSLR and EC funding of the BIL appropriations. As stated previously, this IUP will detail the proposed uses for the General Supplemental Funding for FY 2023, along with DWSRF program requirements.

#### ***Disadvantaged Community Subsidy***

Regarding the additional subsidization, the BIL overrode the congressional additional subsidization for what is in SDWA 1452 (d) which used to say 12 to 35% additional subsidy for disadvantaged communities each year. Thus, only for the BIL general and the LSLR Grants or “pots”, the BIL states: *“Provided further, That for the funds made available under this paragraph in this Act, forty-nine percent of the funds made available to each State for Drinking Water State Revolving Fund capitalization grants shall be used by the State to provide subsidy to eligible recipients in the form of assistance agreements with 100 percent forgiveness of principal or grants (or any combination of these), notwithstanding section 1452(d)(2) of the Safe Drinking Water Act (42 U.S.C. 300j-12).”* Puerto Rico will provide **forty-nine percent (49%) or \$10,316,950** during FY 2023 awarded as forgivable **loans with 100 percent forgiveness of principal and zero percent interest rate.** See Section 8.0 Disadvantaged Community Program for further details.

This Department has revised its definition of a disadvantaged community in order to even broaden the scope of systems that can participate of the funds under this program and as such is defined and presented in this IUP. This Department is looking forward to assist these

system/disadvantaged communities in accessing these funds in order to improve their water infrastructure and to protect public health. For more details, see Section 8.0

DOH expects to use set-aside funds to attract and assist disadvantaged communities that possibly were unable to complete SRF funding requirements. This Department is providing all possible benefits, as provided and indicated by the BIL, to the disadvantaged communities beyond additional subsidization, as needed or necessary, including lower interest rates and extended loan terms.

For background regarding the provision's application for the General Supplemental Funding, please refer to **Attachment VII** which includes memorandum dated April 3, 2023 regarding the DWSRF final allotments for FY 2023.

The following table includes the amounts awarded to date as Congressional or Disadvantaged Community subsidy from BIL General Supplemental funds, duly identified.

<b>TOTAL DWSRF PROGRAM FINANCIAL ASSISTANCE AND ADDITIONAL SUBSIDY TO DISADVANTAGED COMMUNITIES</b>			
<b>Federal Fiscal Years</b>	<b>Federal DWSRF Dollar Provided to PR (Capitalization Grants)</b>	<b>Additional Subsidy Awarded</b>	<b>Subsidy Awarded to Disadvantaged Communities<sup>1</sup></b>
BIL Supp. 2022	\$ 17,992,000	0	\$8,816,080
BIL Supp. 2023	\$21,055,000	0	\$10,316,950
<b>Total</b>	<b>\$39,047,000</b>	<b>\$0</b>	<b>\$19,133,030</b>
<sup>1</sup> Subsidy commitments to be provided of the Federal Capitalization Grant to identified Disadvantaged Communities.			

**SPACE LEFT INTENTIONALLY IN BLANK.**



## ***Ongoing Program Initiatives/Requirements***

### **1.1 Green Project**

Funds under this reserve may be used at the discretion of each State, be used for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities.

During this year Puerto Rico has not been able to identify green infrastructure within the projects that will be funded from the FY 2023 funds. Notwithstanding in the **Attachment V - System Criteria and Ranking Methodology (Summary), H, Green Portion (only for Green Projects)**, provisions are established to rank green projects, if there may emerge any such projects. For further information on eligible projects see Section 4.2 of EPA's DWSRF Eligibility Handbook.

### **1.2 Davis-Bacon Requirements**

In order to comply with the Davis-Bacon requirements, the Commonwealth will include in all assistance agreements, to provide financing for a project, a term and condition requiring compliance with the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C.300j-9(e)) in all procurement contracts and sub-grants, and it will require that loan recipients, procurement contractors and subgrantees include such a term and condition in subcontracts and other lower tiered transactions. All contracts and subcontracts for any construction project carried out in whole or in part with assistance made available as stated herein shall insert in full in any contract in excess of \$2,000 the contract clauses as stated in the Consolidated, 2023 and the AWIA 2018, §2015(b): Prevailing Wages or any grant condition referencing Contract and Subcontract provisions. Please refer to **Attachment VII – Interim Davis Bacon Act Guidance (EPA)**

March 2010 (<https://www.epa.gov/drinkingwatersrf/interim-davis-bacon-act-guidance>)

### **1.3 Reporting Requirements**

The SDWA requires in general a series of reports that need to be provided as part of the administration of the Program.

#### **1.3.1 Report to Governor**

In the Report to the Governor on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State is necessary to demonstrate *“efforts of the State to encourage development by public water systems of asset management plans and to assist public water systems in training relevant and appropriate persons in implementing such asset management plans”*.

#### **1.3.2 Project and Benefits Reporting (PBR)**

“States shall report no less than quarterly in the DWSRF PBR systems on the use of all SRF funds. This information will also need to be included in the Annual Report. Quarterly reporting shall include use of the funds for green projects, and Additional Subsidization as described in paragraph below, as well as information on the environmental and public health benefits of SRF assistance agreements.”

#### **1.3.3 NIMS**

Annually, DOH has committed in the preparation of the National Information Management Systems (NIMS) Report. It is DOH’s intention to continue participating in the preparation of the NIMS and will use the resources of

the PBR and NIMS online to enter this information. Quarterly reporting shall include use of the funds for the GPR and Additional Subsidization, as well as information on the environmental benefits of SRF assistance agreements. This information will be included in the Annual Report.

#### **1.3.4 Needs Survey**

DOH will continue to assist in Needs Survey completions as requested by EPA. We have to point out that the reporting in regard the Needs Survey of water systems

to be conducted in accordance to the regulations, shall include an assessment of costs to replace all lead service lines as defined in the law of all eligible public water systems , and such assessment shall describe separately the costs associated with replacing the portions of such lead service lines that are owned by an eligible public water system and the costs associated with replacing any remaining portions of such lead service lines, to the extent practicable.” For more information see ***Attachment VII-A***.

#### **1.4 American Iron and Steel (AIS)**

The American Iron and Steel (AIS) provision requires DWSRF assistance recipients to use iron and steel products that are produced in the United States. This requirement applies to projects for the construction, alteration, maintenance, or repair of a public water system or treatment works. The BIL 2021 made the AIS provision permanent for DWSRF projects. The appropriation language sets forth certain circumstances under which EPA may waive AIS requirements. For details, see [Waiver Request Process](#) at EPA’s webpage and we have included in ***Attachment***

VII EPA's memorandum dated November 20, 2018, on the subject *"Application of American Iron and Steel Requirements for Drinking Water State Revolving Fund Projects for Fiscal Years 2019 Through 2023"*.

### **1.5 Build America Buy America (BABA)**

The Made in America Office (MIAO) of the Office of Management and Budget (OMB) published Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure (OMB Guidance M-22-11) on April 18, 2022. The guidance provides government-wide implementation direction for all Federal financial assistance programs for infrastructure. Therefore, Federal financial infrastructure investments obligated on or after May 14, 2022, must comply with the BABA requirements. Absent a waiver, all iron, steel, manufactured products, and construction materials permanently incorporated into an infrastructure project subject to the BABA requirements must be produced in the United States.

DOH will include the BABA requirements in Assistance Agreements in order that subrecipients incorporate them in projects' solicitation for bids and in contracts and subcontracts.

For more information on the BABA requirements, visit the EPA Office of Water's dedicated website – <https://www.epa.gov/cwsrf/build-america-buy-america-baba>. For information on approved waivers, visit <https://www.epa.gov/cwsrf/build-america-buy-america-baba-approved-waivers>. You may also email questions to [BABA-OW@epa.gov](mailto:BABA-OW@epa.gov).

## 1.6 Unliquidated Obligations

DOH will continue implementing to the extent possible the grants policy issuance 12-06 *“Timely Obligations, Award and Expenditure of EPA Grant Funds”* the memorandum dated Sept. 12, 2013 for *“Maximizing the Benefits of the DWSRF through efficient federal funds management practices”* and the memorandum dated April 14, 2014 for *“DWSRF ULO’s Reduction Strategy”*.

EPA continues encouraging the reduction of ULO’s, using several practices that are detailed on the above-mentioned memoranda to accelerate the use of the ULOs.

DOH will continue:

- Using the federal funds in a first-in-first-out (FIFO) basis.
- Up to date, all repayments received, along with their earned interests, have been included in financial agreements, including the \$16,601,522 that were left out to be available as a result of PRASA’s Debt Restructure Agreement signed on July 26, 2019 (See Figure A – “Sources of DWSRF Funds as of June 2024”).
- DOH will focus on the ready-to-proceed projects and/or with the projects bypass procedures for projects not yet ready-to-proceed.
- DOH is in coordination/notification of these initiatives to the current and up to date sole “loanee” PRASA and, as of today, DOH is coordinating these activities directly with PRIFA.
- DOH will be monitoring how the ULO’s diminish and will evaluate the implementation of other alternatives and/or suggestions made by EPA
- DOH as an ULO’s reduction plan.

This Intended Use Plan (IUP) includes:

- an anticipated financing schedule for this IUP period;
- specifics on how DOH proposes to use available DWSRF funds;
- a description of the goals (short and long term) of the DWSRF program;
- a description of the state DWSRF program's coordination of funding priorities with the state drinking water enforcement agency;
- a Readiness Project Priority List of eligible drinking water projects: disadvantaged community projects and hardship list to receive DWSRF financing;
- cost estimates for listed projects;
- an estimate of funds anticipated to be available for financial assistance;
- criteria for selecting projects to receive financial assistance;
- criteria for determining which communities qualify for hardship loan;
- criteria for determining systems qualifying for the additional subsidization if applicable;
- criteria for determining equivalency projects;
- the project scoring, ranking and selection system;
- a response to comments on the proposed ranking system;
- a discussion regarding the state's strategy to responsibly and expeditiously make use of un-liquidated funds from capitalization grants open;
- indication if the state is designating green projects and the method-criteria used for designating, if applicable; and
- indication if the state accomplished all the previous Work Plan enumerated goals.

Concerning the activities as detailed in the work plan most of them have been accomplished although others require additional time and as such have been detailed in the corresponding work plan.

## **2.0 SHORT AND LONG-TERM GOALS**

Through the BIL, the EPA is looking forward to strengthening the Nation's drinking water and wastewater systems. The BIL has provisions for flexibility so that borrowers can address challenges related to water quality and public health.

Under the BIL the key priority is to ensure that disadvantaged communities benefit equitably from the historic investment of the government in water infrastructure. To this effect under this general supplemental funding (GSF), 49% of the funds provided under the program, must be provided as grants and forgivable loans to disadvantaged communities.

### **2.1 Short-Term Goals**

- Strengthen, establish and maintain a continuous technical assistance support process available to drinking water systems for availing compliance.
- Identify and determine feasible and affordable general compliance action plans available for systems implementation.
- Coordinate a mechanism or process for consolidating and/or eliminating existing non-viable small public drinking water systems.

- Use funds under the set-asides to establish a mechanism to assist and evaluate systems in order to improve their compliance and assure public health protection.
- Establish a technical and/or financial assistance mechanism to provide small systems that are in non-compliance, due to technical, financial and managerial reasons, with the necessary tools to foster compliance and access to funds and subsidies.
- Evaluate alternative solutions by assessing Best Management Practices (BMP) and Best Available Technology (BAT) to avail systems compliance.
- Promote in systems their development and use of asset management plans.
- Maximize the use of funds under the BIL.
- Increase investment in disadvantaged communities.
- Increase low-cost financing for strengthening the existing drinking water infrastructure.
- Promote resilience in drinking water systems.
- Facilitate/promote the Construction of resilient infrastructure.
- Provide feasible means of financing resilient infrastructure.
- Address new and urgent water challenges.

## **2.2 Long-Term Goals**

- Focus on providing assistance to systems that are in the process of attaining and maintaining capacity.



- Promote and maintain an infrastructure construction program for the drinking water facilities of the Commonwealth.
- Evaluate the DWSRF operating structure to ensure the program is administered in a manner that assures its revolving nature in perpetuity.
- Assist PRASA in their quest to improve drinking water quality and dependability in the Commonwealth.
- Improve and strengthen the drinking water systems of the island.
- Promote Construction of drinking water systems which are energy efficient and all weather resilient.

### **3.0 FINANCIAL STATUS/TOTAL DWSRF**

Amounts deposited in a State fund, including loan repayments and interest earned on such amounts, shall be used only for providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State loan fund established or other financial assistance authorized under this section to community water systems and nonprofit noncommunity water systems, other than systems owned by Federal agencies.

#### **Set-Asides**

Regarding the set asides to be taken from the supplemental BIL, 2023 funds, DOH will establish a four percent (4%) or \$842,200 available under the administration set aside and the two percent (2%) or \$421,100 available for the Technical Assistance set-aside. The 2% established in fiscal year 2022 will be used for ongoing activities in 2022, as programmed for this set-aside and initiated in FY 2021 due to the delays encountered, caused by the pandemic and the global

fiscal situation. Of the ten percent (10%) available for the State Program Management set-aside under the BIL, DOH will establish only \$631,650 or 3% and will bank the remaining seven per cent (7%) or \$1,473,850. This Department reserves the right to take from future capitalization grants amounts not claimed at this time.

The following table provides information of the set-asides funds available from previous grants and cash draws executed.

OUTSTANDING OBLIGATIONS				
Set-aside*	Previous Awards <sup>Δ</sup>	Cash Draw as of Sept. 2023	Obligations	Available
DWSRF BIL - GENERAL SUPPLEMENTAL FUNDS				
Technical**	\$780,940	\$0.00	\$780,940	\$0.00
State Program Management <sup>ΔΔ</sup>	\$1,741,170	\$0.00	\$1,741,170	\$0.00
<p>* There is no work plan required for administrative set-aside. The Commonwealth of Puerto Rico will be using the amount of <b>\$842,200.0</b> or 4% of the <b>\$21,055,000</b> allotment corresponding to the FFY <b>2023</b> BIL Gen Supp Capitalization Grant for the administrative set aside.</p> <p>DOH reserves the authority to take from future BIL Gen Supp capitalization grants funds not requested at this time from this capitalization grant for the applicable set-aside.</p> <p>** The Commonwealth of Puerto Rico will establish the amount of <b>\$421,100</b> or <b>2% of the \$21,055,000 allotment corresponding to the FFY 2023</b> BIL Gen Supp Capitalization Grant for the Technical Assistance set aside. <b>This amount includes FY 2023 capitalization grant technical set-aside.</b></p> <p><sup>ΔΔ</sup> The State Program Management set-aside corresponding to the <b>FY 2023</b> BIL Gen Supp capitalization grant will be established in the amount of <b>\$631,650</b> or <b>3%</b>. DOH reserves the authority to take from future BIL Gen Supp capitalization grants funds corresponding to funds not requested at this time from this capitalization grant for the State Program Management set-aside.</p>				

### **Loans/Financial Agreements**

DOH prepared and submitted to PRIFA the financial agreement document for the use of the FY 2022 Base and BIL General Supplemental grant funds during the third quarter of FY 2023-24 and is still waiting for its execution. **Appendix I – “Tracking of Use of Federal Portion of Grants for Projects”** provides all the information related to available funds under each grant and detail tracking of its use.

### **State Match**

Regarding the requirement of the state match for these funds, **a ten percent (10%)** or the amount of **\$2,105,500** will be provided by the Office of Management and Budget of the Government of Puerto Rico. The cash draw proportionality for the BIL funds directed for “General Supplemental Provisions” will **be 90.10% federal share and 9.90% state share** and is also described in the disbursement schedules. Nonetheless, according to the “Approval of Class Exception from the Clean Water and Drinking Water State Revolving Fund the Cash Draw Rules” US EPA Memorandum dated November 2022, the requirement for states to draw SRF disbursement requests at a proportional federal to state ratio was eliminated. Thus, allowing States to draw federal funds at a ratio of 100% for disbursement to assistance recipients to cover incurred project costs, after States have deposited the appropriate state match into the fund.

### **Repayments**

Of an available repayment of \$13.8M, for FY2023 an amount of \$6.5M were included for FY2023 Base funds. During FY2023, an additional supplemental funding became available for PR corresponding to Hurricanes Fiona and Ian relief for an amount of \$222.3M. This limits the availability of ready-to-go projects thus reducing the pace of use of funds, heightened if repayments were to be included. Therefore, the remaining balance of \$7.7M will be included in FY2024 Base and BIL Supplemental IUPs as more projects become available.

The proposed sources and uses of the DWSRF for this IUP are as follows:

**SPACE LEFT INTENTIONALLY IN BLANK.**

<b>SOURCES OF FUNDS FY 2023</b>	<b>BIPARTISAN INFRASTRUCTURE LAW</b>	<b>TOTAL</b>
Grant Funds <sup>√</sup>	\$21,055,000	<b>\$21,055,000</b>
State Match (10%)	\$2,105,500	<b>\$2,105,500</b>
<b>Total Resources</b>	<b>\$23,160,500</b>	<b>\$23,160,500</b>
<b>USES SET-ASIDES** (ref. to Sec. 4, Set Asides, for detailed description of allocations)</b>		
Administration (4%)	\$842,200	<b>\$842,200</b>
Technical Assistance (2%)	\$421,100	<b>\$421,100</b>
State Program Management (3%)	\$631,650	<b>\$631,650</b>
<b>Total Set Asides</b>	<b>\$1,894,950</b>	<b>\$1,894,950</b>
<b>Amount available for Projects Financial Agreement</b>		<b>\$21,265,550</b>
<b>FINANCIAL AGREEMENT DISCLOSURE</b>		
Mandatory Congressional Subsidy is overrode by BIL		<b>OVERRODE</b>
Additional 49% Disadvantaged Comm Subsidy		<b>\$10,316,950</b>
<b>TOTAL AMOUNT FOR LOAN</b>		<b>\$10,316,950</b>
<sup>√</sup> Of the capitalization grant amount, ONLY ONE subsidy is established by the BIL, 49% of the capitalization grant will be awarded as additional subsidization. This subsidy is in the form of principal forgiveness and zero percent interest rate. It will only be awarded to systems that meet the definition of disadvantaged community criteria * State matching funds <b>for this fiscal year 2023</b> in the amount of <b>10% or \$2,105,500</b> will be provided by the Office of Management and Budget of the Government of Puerto Rico. ** From the set-asides monies from the BIL that were established, only the State Program Management set-aside was established as follows. Out of the 10% corresponding to the State Program Management set aside, only three per cent ( <b>3%</b> ) or <b>\$631,650</b> is established. The remaining seven percent ( <b>7%</b> ) or <b>\$1,473,850</b> will be banked. DOH reserve the authority to take from future grants funds not requested under the provisions of the BIL.		

### **Small Systems**

A state must annually use at least 15% of all funds credited to the fund account to provide loan assistance to systems serving fewer than 10,000 persons (Section 1452(a)(2)), to the extent that there is a sufficient number of eligible projects to fund. It is the Commonwealth's strategy to award loans to systems that eliminate or consolidate small systems serving a population of 10,000 or less. The following table presents a summary of the loan assistance provided by the Commonwealth to small systems since the inception of the Program.

ASSISTANCE TO SMALL SYSTEMS WITH POPULATION < 10,000				
Federal Fiscal Years	Executed Project Financial Assistance	Executed Project Financial Assistance to > 10,000	Executed Project Financial Assistance to < 10,000	Per cents
1997 – 2022 Base/BIL	\$ 451,599,621 <sup>1</sup>	\$390,232,506 <sup>1</sup>	\$46,886,079 <sup>1</sup>	10.38% <sup>1</sup>
BIL Supplemental 2023	Ponce en Marcha IVB - Ponce Urbano WDS	\$ 2,065,340		
	Vieques-Naguabo WDS Improvements	662,376		
	Aibonito La Plata WDS Improvements	589,796		
	D/B 8" Pipe replacement WDS Camino Nuevo- Yabucoa	1,774,536		
	Raw Water pipe from Penstock Carite III to Guayama WTP	1,883,220		
	Jagual WTP Improvements, San Lorenzo		4,000,000	
	Comerio Urbano WDS	4,290,282		
	Malpaso WTP		2,000,000	
	Ponce en Marcha IVC - Ponce Urbano WDS	\$2,000,000		
	Betances WTP	\$2,000,000		
<b>SUBTOTAL</b>	<b>\$ 21,265,550</b>	<b>\$15,265,550</b>	<b>\$6,000,000</b>	<b>28.21%</b>
<b>TOTAL Accumulated</b>	<b>\$ 472,865,171</b>	<b>\$405,498,056</b>	<b>\$52,886,079</b>	<b>11.18%</b>
Note: ARRA 2009 funds are not included.				
1- Includes financial assistance awarded since program inception				

In general, under the regular program base allotment there are small systems that will not have the capacity to enter into a loan or are not willing to or interested in participating of certain benefits, thus, 15% will be limited. Notwithstanding, it is the strategy of the Commonwealth to fund those projects that eliminate or consolidate small systems that do not have the capacity to enter into a loan. Meanwhile, DOH is taking steps to capacitate small systems and promote in them the use of asset management, among others, in order to enable them to have technical, financial and managerial capacity to avail their ability to finance the construction of needed infrastructure that will warrant and provide compliance. Now the BIL “seeks to ensure disadvantaged communities have access to funds to improve their water infrastructure and to protect public health.

#### 4.0 TYPES OF PROJECTS TO BE FUNDED

Under the BIL, all the projects eligible for DWSRF financing continue being eligible and include investments to upgrade /replace infrastructure, address exceeding federal or state health standards, prevent future violations of standards, and provide the public with safe drinking water. With the enactment of the AWIA two “possible” eligibilities have emerged:

- a. “to help address a threat to public health from heightened exposure to lead in drinking water or if a Federal or State emergency declaration has been issued due to a threat to public health from heightened exposure to lead in a municipal drinking water supply,
- b. to assist areas affected by natural disasters where the definition of community water systems meaning is given in accordance to section 1401(15) of the SDWA (42U.S.C. 300f(15)), an eligible state means a state as defined by section 1401(13)(B) of the SDWA(42U.S.C. 300f(13)(B)) and eligible system means a community water system.”

Also, are spelled out as eligible in the law, the consolidation or transfer of ownership a public water system or other actions resulting pursuant to a mandatory assessment, may receive a loan to carry out such consolidation, transfer, assessments, or other actions, and actual consolidations. In addition to the base DWSRF allotment for this fiscal year, EPA has indicated and emphasized also the approval of the BIL, that assigns to Puerto Rico’s DWSRF program approximately \$53.8 million per year for the next five years to be used as an investment increase to strengthen the nation’s drinking water systems.

The anticipated outputs and outcomes of the projects included in this Intended Use Plan are:

Outputs	Outcomes
Four (4) loan agreements <sup>[1]</sup>	Improve compliance for systems receiving DWSRF assistance
Increase the cumulative disbursement rate to 50% <sup>[2]</sup>	Increase the speed at which projects are proceeding towards completion
Increase cumulative projects completion to 50% <sup>[2]</sup>	Improve compliance with SDWA by increasing number of projects initiating operations
<p><sup>[1]</sup> The loan corresponding to fiscal year capitalization grants 2022 for regular funds and BIL Supplemental are pending execution by PRIFA. The consolidated loan document corresponding to fiscal year 2022 for BIL LSLR and EC funds was drafted by DOH and submitted for evaluation and processing. Other financial agreements will be drafted for BIL 2023 funds and SAHFI funds.</p> <p><sup>[2]</sup> This FY reporting includes a <i>significant</i> increase in non-regular funds availability for PRDWSRF of approximately \$277M, reducing substantially the disbursement rate, which funds approximately 46 new projects, also lowering the project completion rate.</p>	

## 5.0 FINANCIAL PLANNING PROCESS

Projects can be submitted for listing at any time. A new IUP will be issued at least once a year and may be amended during the period that the IUP is in effect, providing that sufficient funds are available. Projects submitted for financing will be screened for eligibility, ranked, scored and listed. All eligible projects for which pre-application forms have been submitted and reviewed will be included on the Project Priority List.

Section 1452 (e) and (g)(2) provides for the establishment of program administrative fees which may be assessed on a recipient of a loan, and these must be deposited into the Fund or into an account outside the Fund. For this current fiscal year funds (FY 2023) BIL General Supplemental, this fee is of one-half (0.5%) percent of the loan amount for a total of \$54,743 will not be established. This determination was made by PRFAAFA. Should it be established, then it will be deposited by PRIFA, outside the Fund, in a separate Interest Bearing Account.

The Commonwealth of Puerto Rico may consider leveraging in order to increase the amount of funds available to finance infrastructure projects. If leveraging is undertaken, it will be indicated in the IUP and the applicable grant application and will

be structured in accordance with the requirement of the Act and the DWSRF final guidelines.

## **6.0 TYPES OF ASSISTANCE AND FINANCIAL TERMS**

Capitalization Grants will be used to provide the following types of financial assistance:

### **6.1 Direct Loans**

Based on an economic and financial analysis conducted on behalf of DOH by PRIFA in coordination with PRFAAFA, loan/financial agreements will be executed with PRASA or any other qualified borrower at a negotiated interest rate. Historically, the loan interest rate has been 2% and the financing term has been 20 years. This changed with PRASA 's debt restructure. Additionally, as stated above, the AWIA provides for a change in the financing term to 30 years; in the case of the disadvantaged communities, to 40 years and/or useful life of the project's components. These may vary as a result of a financial analysis to be undertaken. Also, the use of the Hardship Loans/Affordability Criteria for Disadvantaged Systems may be applicable. DOH is waiting for PRIFA's execution of the loans/financial agreements corresponding to the Regular Base funds, the Lead Service Lines Replacement (LSLR) funds, the Emerging Contaminant (EC) funds and the General Supplemental FY 2022 funds. It must be noted that this has to be approved by several agencies and by PROMESA.

### **6.2 Refinancing**

In accordance with Section 1452 (f)(2) of the SDWA, local debt obligations may be purchased or refinanced at or below market rates, where the initial debt was incurred, and construction initiated after Law was signed.



### **6.3 Hardship Loans/Affordability Criteria for Disadvantaged Systems**

The Commonwealth may determine if hardship loans will be made available to borrowers and the rate (below the regular reduced rate) at which these will be executed. Affordability criteria (*refer to section 8*) will help to determine the hardship loan rate, which may be as low as zero percent. Currently, a hardship loan determination may be applied. In the debt restructure process the hardship loan determination was not used. Nevertheless, due to the change resulting from the AWIA, a small, disadvantaged community loan may be established in conformity with the requirements and applicable federal regulations as long as or to the extent that there are sufficient applications for loans to communities described. Terms governing principal amortization may be the same as those applicable to direct loans, where the interest rate may be reduced. Any interest payable on hardship loans will be set or determined by the DOH in coordination with PRIFA and PRFAAFA and may be between two-thirds of the market rate, as determined by the most recent DWSRF financing, and zero percent (0%). The actual rate may be determined based on the affordability criteria and applicable laws. For certain borrowers that qualify for a zero percent hardship loan, there may be a service charge. As stated before, this will be set or determined by the DOH in coordination with PRIFA and PRFAAFA.

### **6.4 Additional Subsidization**

The recipient of the grant must identify projects within at least one of the following qualifying categories in order to receive points under the additional 49% subsidy criterion:

- a) projects that will eliminate or consolidate small system – 3 points

- b) projects that support sustainable systems and help build or maintain the technical, financial and managerial capacity of the recipient – 2 points
- c) systems related to communities or directly serving a community that could not otherwise afford the DWSRF loan including disadvantaged communities as defined by the Commonwealth – 1 point

The mandatory congressional 49% subsidy will be distributed until the subsidized amount is completely used and among the eligible projects (See **Appendix I**) as follows:

- to project(s) by priority order and the qualifying category and until the subsidized amount is completely used.

Please note that, notwithstanding the distributed amount by the above priorities, the subsidized amount could be re-awarded due to unforeseen circumstances (i.e. projects delayed, among others). The re-award may be in any of the following manners and until the subsidized amount is used:

- to project(s) by priority order and the qualifying category:
- directly to the project(s) identified within the qualifying categories,
- the project(s) first received and ready to go,
- the most expensive project(s).

DOH has determined to provide in this Intended Use Plan this additional subsidy of 49%. Therefore, in targeting additional subsidies, as established in the BIL, Puerto Rico will provide 49% or (**\$10,316,950**) of the FY2023 Supplemental capitalization grant to provide additional subsidization (49% subsidy) with 100% percent forgiveness of principal and zero percent interest rate as mandatory congressional additional subsidy.

Information on prior years' subsidy use and applicable regulation is included in ***Appendix II.***

## **7.0 SET-ASIDE ACTIVITIES**

Section 1452 of the SDWA authorizes states to use a portion (set-asides) of the federal Capitalization Grant to support various drinking water programs. Section 1452 allows as much as 31% of a State's Federal Capitalization Grant to be used for administrative assistance, technical assistance, public water supply supervision and special activities.

It is important to note that DOH will continue undertaking a series of activities and project that were previously funded with monies set apart under the set-asides that have been carried over from previous capitalization grants and which use is based, within others, on priorities established in the Technical Assistance Support (TAS) (See ***Attachment I***). The Set-asides Work Plan provides all the activities that DOH will be undertaking in order to expedite the use of funds not only from the current fiscal year but any other un-liquidated balances.—

### **7.1 Administrative Assistance**

It is important to note that “The maximum annual amount of DWSRF money (not including any fees collected that are placed in the fund) that may be used to cover the reasonable cost of administering the fund (i.e. all BIL and base appropriations) is the greatest of the following: an amount equal to 4% of all grant awards to the fund received by state DWSRF for the fiscal year; \$400,000; or 1/5 percent of the current valuation of the fund. The BIL did not alter these options or the calculation of available administrative funds and verification procedures already in place”. The Commonwealth of Puerto Rico will be using the 4% or **\$842,200** of the FY 2023 BIL General Supplemental Capitalization Grant corresponding to the

Administrative Set-aside. Administrative tasks are undertaken, mainly on an annual basis, and include, but are not limited to:

- implementing the Operating Agreement between DOH and the United States Environmental Protection Agency (EPA);
- developing and finalizing a Capitalization Grant application package to secure federal funds;
- performing project technical reviews;
- ranking project proposals in priority order;
- preparing an IUP which identifies available funding resources and expenditures and establishes a readiness fundable priority list (current year) and multi-year project priority list;
- implementing a State Environmental Review Process (SERP)<sup>1</sup> as required; reviewing and approving engineering reports, construction plans and specifications; conducting project inspections;
- evaluating and determining project affordability (hardship); conducting public participation efforts and hearings;

**SPACE LEFT INTENTIONALLY IN BLANK.**

---

<sup>1</sup> Delegated by Law of the Commonwealth, the Office of Permits Management (OGPe) will be undertaking certain activities that were undertaken by the Environmental Quality Board. We have to point out that The Commonwealth of Puerto Rico through “Puerto Rico Permit Process Reform Act, Act No. 161 of December 01, 2009, as amended,” the process included in REPED (“Environmental Quality Board Regulation for the Presentation, Evaluation and Transmittal Process of Environmental Documents” (REPED)) states that the Permit Management Office (PMO) will undertake the assessment of the environmental compliance process. This regulation as approved provides an assessment process pursuant to Environmental Policy Act (NEPA), performing substantially similar to Puerto Rico Regulation for Environmental Impact Statements. The process was design in accordance with the Environmental Public Policy Act of Puerto Rico, Act No. 416 of September 22, 2004, as amended.

- tracking systems; directing the investment of DWSRF funds; preparing project financing and loan agreements (including cost summaries and project financing schedules);
- preparing necessary financial documents; originating loans; processing disbursement request and conducting associated document review; collecting and managing loan repayments;
- establishing and collecting loan fees; ensuring that program and fiscal audits are conducted; preparing necessary cash draw requests and preparing technical and financial reports to meet federal and state mandates; and
- initiating the implementation of the asset management promotion in community drinking water systems and assisting them in their development of the asset management plan.
- preparing reports for the compliance with program requirements and grant conditions.

## 7.2 Technical Assistance

Section 1452 (g)(2)(D) of the SDWA authorizes states to take up to 2% of the total annual Capitalization Grant to provide technical assistance to small water systems (those with population of 10,000 or less). The Commonwealth of Puerto Rico will be using the 2% or **\$421,100** of the FY 2023 BIL General Supplemental Capitalization Grant corresponding to the technical set-aside.

The technical assistance may include assistance to potential loan recipients complying with national and state drinking water regulations. It is essential to continue expanding the technical assistance provided and explore

new mechanisms and programs to address the needs of small systems. With the collaboration of public and private entities these activities may be undertaken to provide direct assistance to selected or specific communities.

The Technical Assistance Support (TAS) established by DOH as part of Puerto Rico's Drinking Water Program will provide, in an organized manner, the assistance that drinking water systems need in concert with other Commonwealth assistance initiatives. The purpose of the TAS is to use the DWSRF and set asides limited resources effectively and efficiently. Though the TAS has the following priorities: Capacity Development Program, Area-Wide Optimization Program, Circuit Rider Program.

#### **Small Water Systems (Non-PRASA)**

DOH has an existing small water systems program (Non-PRASA). The DOH Non-PRASA Program provides technical assistance and guidance to communities by considering project alternatives, determining project priorities, and advising communities on selecting the simplest project, using volunteers, and avoiding duplication of services.

The activities to be undertaken include:

- acquiring, training and orienting new program staff;
- holding community meetings to explain the Non-PRASA program and its advantages;
- upgrading the record keeping system to facilitate periodic status reports;
- train and certify if necessary existing staff as certified operators

- assignment of existing staff to provide training and orientation to systems owners or operators; and
- assist systems' owners in order to facilitate the certification of the operator.

### **7.3 State Program Management**

The SDWA authorizes states to take up to 10% of the total annual Capitalization Grant to support State Program Management activities, including implementation of an Operator Certification Program and a Capacity Development Strategy. During fiscal year 2023, this Department will establish from the Supplemental Capitalization grant the State Program Management set-aside under the BIL. DOH will establish out of the ten percent (10%) available, only **\$631,650** or **3%** and will **bank the remaining seven per cent (7%) or \$1,473,850**. This Department reserves the right to take the **remaining 7 % or \$1,473,850 from** future capitalization grants amounts not claimed at this time.

At the time, this amount may be used to continue activities under this set-aside. For this fiscal year DOH's expectation is to complete ongoing activities started and give support to the PWSS in the assistance provided to the drinking water systems. DOH may also use these funds to promote asset management in the community water systems.

#### **7.3.1 Operator Certification Program**

The Commonwealth of Puerto Rico, through DOH and the Puerto Rico Department of State, State Drinking Water Treatment Plant Operator

Certification Board (the Board) established the Operator Certification Program for Drinking Water Systems, in accordance with the SDWA.

To this effect DOH has undertaken a pilot project for this purpose partially financed with the 2% or \$220,220 established during FY 2020 for the State Program Management and \$1,079,520 or 6% established in FY 2022, and now during this fiscal year a 3% or \$631,650 under the General Supplemental capitalization grant.

### **7.3.2 Capacity Development Program**

The Commonwealth of Puerto Rico developed a capacity development assurance plan where procedures for undertaking the capacity assessment of new drinking water systems were established. Capacity Development Strategy.

The goals of the Capacity Development Strategy are to discourage the formation of new, small, non-viable public water systems, and to assist and encourage the consolidation, collaboration and regionalization of existing nonviable systems. *Attachment II (Capacity Development Program)* summarizes the Capacity Development elements considered when assessing Capacity.

### **7.4 Special Activities Local Assistance and Other State Program Up to 15% No More Than 10% Activity**

Section 1452(k) of the SDWA authorizes states to take up to 15% of the annual Capitalization Grant to assist in the development and implementation of local drinking water protection initiatives by providing assistance in the form of loans for land acquisition



and source water petitions projects. No more than 10% of the Capitalization Grant can be allotted to any one of these special activities. The Commonwealth is not proposing to take or use any of the allotted set-aside funds from the FY 2023 DWSRF General Supplemental for the following programs.

#### **7.4.1 Land Acquisition**

Funds in the DWSRF can be used to purchase land integral to the construction of facilities, but not for other purposes such as watershed protection. A separate 10% set-aside could be used to establish a separate low-interest loan fund for land acquisition, particularly for watershed protection.

#### **7.4.2 Capacity Strategy**

The Commonwealth has used a portion of the allotted State Program Management set-aside to develop a Commonwealth Capacity Development Strategy. Recent amendments to the DWSRF Program through the SDWA Act provide new insight to the Capacity Development Strategy as a mean to assist systems in their compliance and sustainability process. To this effect the following amendments were enacted: assist public water systems in developing and implementing asset management plans.

The development and implementation of asset management plans for communities are also eligible expenses under the 15% Local Assistance and Other State Programs set-aside (for Capacity Development).

#### **7.4.3 Source Water Petitions**

As part of the State's Source Water Assessment and Delineation Program, the Commonwealth will assess variety of options for improving source water

protection throughout the Commonwealth. The source water petition program outline in the SDWA is one such option.

SET-ASIDES STATE REVOLVING FUND BIL Supplemental Provision				
SET-ASIDES	SDWA	FFY 2023 MAXIMUM ALLOCATION	COMMONWEALTH OF PUERTO RICO	FFY 2023
Administration**	4%	\$842,200	4%	\$842,200 <sup>∞</sup>
DOH & PRIFA				
Technical Assistance***	2%	421,100	2%	421,100 <sup>∞</sup>
Management Programs <sup>†</sup> (No Dollar to Dollar Match requirement)	10%	2,105,500	3%	631,650
Capacity Development <sup>∞</sup>	0%	0	0%	0 <sup>∞</sup>
Operator Certification	0%	0	0%	0
Special Activity Set-Asides (No banking allowed. No more than 10% for any individual component under this set-aside)	15%	3,158,250	0%	0
Land Acquisition	(10%)	(2,105,500)	(0%)	0
Capacity Strategy	(10%)	(2,105,500)	(0%)	0
SW Petition Programs	(10%)	(2,105,500)	(0%)	0
<b>Total Set Asides Established<sup>∞</sup></b>	<b>31%</b>	<b>\$6,527,050</b>	<b>9%</b>	<b>\$1,894,950<sup>∞</sup></b>
<p>* Based on an appropriation of <b>\$21,055,000</b> for the Supplemental Provision.</p> <p>** DOH will use 4% for the administrative set-aside or <b>\$842,200</b>.</p> <p>*** DOH will be establishing the technical assistance set-aside 2% or <b>\$421,100</b> corresponding to FY 2023 supplemental provision.</p> <p><sup>∞</sup> DOH will establish a <b>three percent (3%)</b> or <b>\$631,650</b> of the State Program Management set aside available amount out of the 10% from the 2023 BIL General Supplemental capitalization grant. DOH reserves the right to take from future capitalization grants the remaining amount of <b>\$1,473,850</b> or <b>seven percent (7%)</b> from future FY Capitalization Grant under this set-aside.</p> <p><sup>†</sup> It is important to emphasize that since fiscal year 2017, match for the State Program Management set aside was eliminated for capitalization grants awarded after the WIIN Act's passage (December 6, 2016).</p>				

## 8.0 DISADVANTAGED COMMUNITY PROGRAM

### 8.1 **Definition of Disadvantaged Community**

As defined by 1452(d)(3) of the SDWA, a disadvantaged community is one in which the service area of a public water system meets affordability criteria established after public review and comment by the State in which the public water system is located.

As per the definition established by the SDWA section 1452(d)(3) where “a disadvantaged community means the service area of a public water system that meets affordability criteria established after Public Review and comment by the State in which the public water system is located”. DOH will consider a disadvantaged system those systems are serving 25 or more persons or 15 or more connections for more than 60 consecutive days and may or may not be connected to a PRASA system whether or not in the next 5 years and may or may not be considered isolated due to their topographic condition. Thus, a disadvantaged system are those systems that meet the affordability criteria.

#### ***Types of Subsidy***

We have to point out that under the Supplemental capitalization grant for fiscal year 2022, the BIL overrode the two subsidies previously discussed. It is important to mention that there are two types of additional subsidy. One is provided under the disadvantaged community and the other is the “Congressional”. Only one subsidy will prevail in the amount of 49% of the capitalization grant or **\$10,316,950** will be provided under this provision for FY 2023 as forgivable loans with principal forgiveness or grants or a combination. Therefore, in accordance with the law, this Department will provide *“forty-nine percent of the funds made available to each State for Drinking Water State*

*Revolving Fund capitalization grants shall be used by the State to provide subsidy to eligible recipients in the form of assistance agreements with 100 percent forgiveness of principal or grants (or any combination of these)”.*

### ***Selection process***

In the Commonwealth, drinking water projects will be reviewed to determine funding eligibility and scored based on an established priority ranking system. The Project may not be segmented. Refinancing is eligible through the regular subsidized DWSRF Program if qualified as stated in the DWSRF.

Communities whose water projects are ranked high enough will be evaluated for hardship based upon a comparison of projected and programmed service charges (total debt service plus operation and maintenance costs) for a typical household expressed as percentage of Median Household Income Levels (MHIL) for the service area. The DWSRF may provide additional financial assistance to water systems serving communities experiencing economic hardship. Additional financial assistance will be accomplished by first reducing the interest rate as necessary to lower the projected service charge to the Proposed Service Charge (PSC). Other financial mechanisms such as principal subsidy or forty (40) years loan terms (or design life/useful life, whichever is lesser), may be available to provide increased financial benefits.

Moreover, with the amendments to the SDWA the loan term for disadvantaged communities increased **from** 30 years to 40 years. However, the loan term should not exceed the expected design/useful life of the projects.

For fiscal year **2023** BIL General Supplemental, this subsidy is set in the amount of **\$10,316,950** or 49% as the maximum amount to be awarded.

## **8.2 Affordability (Hardship/Disadvantaged System) Criteria**

The purpose of the affordability criteria is to determine which public water systems are eligible for financial assistance beyond the ordinary benefits available through the DWSRF, to assist economically disadvantaged water systems in the construction of eligible drinking water projects.

### **8.2.1 Affordability Criteria**

This Criterion is designed to assist systems most in need on a household basis of points awarded and documented by the latest census information. For those systems, identified as disadvantaged, priority points will be awarded based on the Median Household Income Levels (MHIL) (See **Attachment IV**).

### **8.2.2 Hardship Financial Assistance Criteria**

Projects must meet the definition of hardship under this criterion and determination will be made using the *Systems Criteria and Ranking Methodology (Attachment V)* and as follows:

- Projects may not be segmented in order to qualify for hardship assistance.
- Refinancing is eligible through the regular subsidized DWSRF program if qualified or eligible as required and stated in the DWSRF.
- The applicant for a DWSRF hardship loan must demonstrate that it can repay its debt obligation, has a satisfactory O&M procedure and can comply with DOH/DWSRF Capacity Development Program.
- Projects that are determined eligible for hardship assistance will receive a written confirmation of eligibility.

- Confirmation of funding availability will be valid for two consecutive annual federal funding cycles provided that the projected service charge does not change significantly.
- Confirmation of funding availability may be withdrawn if: the applicant fails to demonstrate satisfactory progress towards project implementation; the information on which the determination was made changes prior to loan closing; or the applicant fails to demonstrate that it can repay the loan.
- Median Household Income Levels based on the latest Census data, which for this fiscal year is as follows:

<b>Median Household Income (MHIL)</b>	<b>Points</b>
less than \$9,813	30
between \$9,813 and \$14,719	15
between \$14,720 and \$19,626	5
above \$19,626	0

### **8.2.3 Projects Likely to Receive Additional Assistance Payments (Hardship List)**

Thus, 49% or **\$10,316,950** has been awarded to the eligible projects. DOH has determined to award it as a forgivable loan with 100% principal forgiveness and zero percent interest rate. Final hardship determinations/evaluations will be completed once DOH received all the necessary information related to project that were initially qualified for hardship status. Following is the list of projects that are qualified to receive FY **2023** Supplemental disadvantaged community subsidy, based on DOH's determination of hardship loan subsidies.

DETERMINATION OF HARDSHIP LOAN SUBSIDIES TO PROJECTS - BIL General Supplemental Funding (DW BIL GEN)											
PROJECTS <sup>[1][2]</sup>	Ready to go	Cumulative Assistance cost (based on Readiness List)	Balance to finance	Priority Points <sup>[1]</sup>	Pop.	RANKING POINTS according to:			TOTAL Priority Points	Rank	Disadv. Commun. Subsidy <sup>[3]</sup>
						MHI Affordability points (2017-2021 US Census)	Additional points based on population (assign 1 point to lowest adding 1 point subsequently)	Additional points based on ready-to-go date (assign 1 point to farthest and adding 1 point subsequently)			
Ponce en Marcha IVB - Ponce Urbano WDS <sup>[4]</sup>	9-21	\$4,000,000	\$ 2,065,340	41.22	122,229	5	7	8	20	1 <sup>[4]</sup>	\$ 2,065,340
Comerio Urbano WDS, Comerio	5-24	0	10,442,851	25.18	18,086	15	3	2	20	2	3,000,000
Bo. Rio Cañas WDS, Mayaguez <sup>[4]</sup>	4-23	1,635,611	0	50	151,538	5	8	6	19	3 <sup>[4][5]</sup>	0
Vieques-Naguabo WDS, Vieques-Naguabo <sup>[4]</sup>	7-22	2,500,000	662,376	31	82,557	5	5	7	17	4 <sup>[4]</sup>	662,376
Penstock Carite III WTP <sup>[4]</sup>	6-23	816,080	1,883,220	10	34,671	5	4	4	13	5 <sup>[4]</sup>	1,883,220
Camino Nuevo WDS, Yabucoa	5-23	2,000,000	1,774,536	30	11,050	5	2	5	12	6	1,774,536
Ponce en Marcha IVC - Ponce Urbano WDS	9-24	2,000,000	2,082,102	41.2	122,229	5	6	1	12	7	1,000,000
Jagual WTP, San Lorenzo	8-23	2,000,000	4,000,000	55	5,443	5	1	3	9	8	706,014
<b>TOTAL</b>											<b>\$10,316,950</b>
<sup>[1]</sup> Information taken from Project Readiness Priority List <sup>[2]</sup> Systems related to communities or serving directly a community that meet affordability criteria of MHI as defined by the Commonwealth. <sup>[3]</sup> For this IUP 2023 BIL Supplemental DAC Subsidy 49% is \$10,316,950						<sup>[4]</sup> These projects received subsidy previously. <sup>[5]</sup> No balance to finance to date. <sup>[6]</sup> Under design.					

## 9.0 PROJECT PRIORITY LIST

### 9.1 Project Selection Process

Federal law requires the Commonwealth to develop a Project Priority Ranking System. The priority ranking system establishes a list of eligible projects to be funded in a manner consistent with the SDWA such that compliance is given the highest priority. The DOH proposed that Priority will be given to water systems in non-compliance with the surface water treatment requirements, and those incurring acute, primary or action level violations as defined in the SDWA. Addressing these problems will protect the public health of the water users and will bring water systems into compliance with the SDWA. The next priority has been given to systems that address the most serious risks to public health, therefore the highest priority will be given to acute public health risks, particularly those related to microbiological organism. Situations that pose chronic and longer-term risks to consumers, such as organic chemical contamination, are also considered.

The scoring criteria also considers issues related to infrastructure upgrading or replacement. The project ranking system also considers, as mandated by the SDWA, special allocations and restrictions on the use of DWSRF monies for disadvantaged and small systems. A detailed description of the Project Priority Ranking Systems is included as **Attachment V** (*Systems Criteria and Ranking Methodology (Summary)*) to this IUP. A checklist as to the information to be provided by the proponent is included as **Attachment VI** (*Check List for Priority Ranking/Project Fact Sheet*).



## **9.2     Description and Use of Project List**

Projects must be included in the IUP to receive DWSRF financing. This IUP includes the following prioritized lists of eligible projects being considered for financing from the DWSRF.

- The Project Readiness List or Fundable List includes projects which have completed construction or will submit plans and specifications for review and approval and are expected to be ready for long-term financing during the effective period of this IUP. DOH will review the projected readiness date and the project proposal for all eligible projects and put together the fundable and planning portions of the list.
- The Project Multi-Year List will also include the project readiness list which includes all those projects expected to qualify for long provisions are made in the Project Priority Ranking System to bypass project which may not progress as expected. The Multi-Year List includes projects that may be ready during the current IUP period and, in the case where additional funds are available or a project on the fundable or readiness portion is not ready to proceed, these projects may substitute the ones not ready upon a formal request of the proponent. Both Lists may include projects for small systems serving less than 10,000 people.

Following is the Priority list detailing all types of projects to be funded under this Intended Use Plan for the General Supplemental provision of the BIL. Also, the proposed fund disbursement schedules are presented.

Puerto Rico Department of Health  
Drinking Water State Revolving Fund Program

**PROJECT READINESS LIST FISCAL YEAR 2023-  
BIPARTISAN INFRASTRUCTURE LAW (BIL) GENERAL SUPPLEMENTAL  
MAY 2024**

Name of Public Water System/PWS I.D.	Priority		Project Description	Pop.	Read. Date	Estimated Assistance (\$)	Estimated Project Cost	GPR Amt (\$) <sup>[1]</sup>	DC Add'l Subsidy <sup>[2]</sup> (\$)
	Rank	Points							
Malpaso WTP, Peñuelas / I.D. 4464	1	185	Malpaso WTP Rehab. -LT2	965	11-24	\$ 2,000,000	\$12,000,000	\$ 0	\$ 0
Jagual WTP, San Lorenzo / I.D. 5416	2	55	D/B Filter replace. At Jagual WTP, San Lorenzo	5,443	5-23	4,000,000	6,000,000	0	931,478
Rio Cañas WDS, Mayagüez / I.D. 3283©	3	50	Bo. Rio Cañas WDS Improv.- Mayagüez	151,538	4-23	0	1,635,611	0	0
Ponce Playa IVB – Ponce Urbano WDS / I.D. 3824 ©	4	41.22	Ponce Playa – Ponce Urbano WDS, IV-B	122,229	5-23	2,065,340	6,065,340	0	2,065,340
Ponce Playa IVC- Ponce Urbano WDS / I.D. 3824 (d)	5	41.22	Ponce Playa – Ponce Urbano WDS, IV-C	122,229	9-24	2,000,000	4,082,102	0	2,000,000
Aibonito La Plata, Aibonito / I.D. 4545 (a)	6	40.16	La Plata WDS Improv., Aibonito	15,973	8-22	589,796	2,589,796	0	0
Betances WTP, Cabo Rojo / I.D. 3373	7	35.02	Betances WTP Rehab.	21,062	2-26	2,000,000	29,000,000	0	0
Vieques-Naguabo, Vieques-Naguabo / I.D. 5386 (b)	8	31	Vieques-Naguabo WDS Improvements	82,557	7-22	662,376	3,162,376	0	662,376
Camino Nuevo WDS, Yabucoa I.D. 5196	9	30	D/B 8" Pipe replace. WDS Camino Nuevo – Yabucoa	11,150	5-23	1,774,536	3,774,536	0	1,774,536
Comerio Urbano WDS, Comerío I.D. 4705	10	25.18	Improv. To Comerio Urbano WDS & 2MG Tank	18,086	12-24	4,290,282	10,442,851	0	1,000,000
Penstock Carite II, Guayama I.D. 4745 (b)	11	10	Raw Water pipe from Penstock Carite III to Guayama WTP	34,671	6-23	1,883,220	3,379,769	0	1,883,220
					<b>TOTAL</b>	<b>\$21,265,550</b>	<b>\$82,132,381</b>	<b>\$ 0</b>	<b>\$10,316,950</b>

<sup>[1]</sup> No projects were identified for the use of the Green Projects Reserve of fiscal year **2023**.

<sup>[2]</sup> The Consolidated, **2023** established the Additional Disadvantaged Comm. Subsidy as follows: 49% or \$10,316,950. DOH will be awarding this subsidy with zero percent (0.0%) of interest rate and principal forgiveness.

Projects to be financed with the FY **2023** funds are shown highlighted in orange and **bold** letter.



PUERTO RICO AQUEDUCT & SEWER AUTHORITY  
 2023 BIL SUPPLEMENTAL FUNDS DISBURSEMENT SCHEDULE FOR FEDERAL AND STATE FUNDS

Cost	Source	Terms (years)	Finance Rate	Type	Type of Project (Step)
\$ 10,316,950	Disadvantaged Community Subsidy	N/A	0%	Principal Forgiveness	2+3
\$ 10,948,600	Loan (F/S)	30	1.0%	Direct Loan	2+3
\$ 21,265,550					

Cash Draw Proportion Fed. 90.10% - State 9.90%

Project Name	Estimated Assistance	FY 2025				FY 2026				FY 2027			
		1 QTR	2 QTR	3 QTR	4 QTR	1 QTR	2 QTR	3 QTR	4 QTR	1 QTR	2 QTR	3 QTR	4 QTR
Malpaso WTP	\$ 2,000,000	\$0	\$500,000	\$500,000	\$500,000	\$500,000	0	0	0	0	0	0	0
Jagual WTP	\$ 4,000,000	0	0	\$500,000	500,000	500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	0	0
Ponce Playa IVB - Ponce Urbano WDS	\$ 2,065,340	0	0	0	\$200,000	200,000	350,000	350,000	350,000	350,000	133,000	\$132,340	0
Ponce Playa IVC - Ponce Urbano WDS	\$ 2,000,000	0	0	0	0	0	0	0	300,000	400,000	500,000	500,000	\$300,000
La Plata WDS	\$ 589,796	0	0	0	150,000	150,000	150,000	139,796	0	0	0	0	0
Betances WTP	\$ 2,000,000	0	0	0	0	0	0	500,000	500,000	500,000	500,000	0	0
Vieques-Naguabo WDS	\$ 662,376	150,000	200,000	200,000	112,376	0	0	0	0	0	0	0	0
Camino Nuevo WDS	\$ 1,774,536	300,000	300,000	300,000	300,000	300,000	\$274,536	0	0	0	0	0	0
Comerio Urbano WDS	\$ 4,290,282	0	0	500,000	800,000	800,000	800,000	800,000	590,282	0	0	0	0
Penstock Carite III, Guayama	\$ 1,883,220	0	0	0	300,000	400,000	400,000	400,000	383,220	0	0	0	0
TOTAL	\$ 21,265,550	\$450,000	\$1,000,000	\$2,000,000	\$2,862,376	\$2,850,000	\$2,474,536	\$2,689,796	\$2,623,502	\$1,750,000	\$1,633,000	\$632,340	\$300,000

### 9.3 **State Environmental Review Process/Determination of Equivalency Projects**

To be consistent with federal guidelines, the State Environmental Review Process (SERP) applies to all projects receiving financial assistance from the DWSRF. The SERP incorporates environmental review requirements of the National Environmental Policy Act (NEPA) and its implementing regulations, and the Puerto Rico Environmental Quality Board Act (Act No. 416 of September 22, 2004, known as the Environmental Public Policy Act derogated Law No. 9 of June 18, 1970, as amended). The DWSRF loan applicant must comply with the SERP in order to receive DWSRF financing.

In accordance with the SERP, all DWSRF financed projects are classified as either Tier I or Tier II projects. Tier I projects, also referred to as "equivalency" projects, refer to those DWSRF projects that are financed by loans whose cumulative total is an amount equal to the federal Capitalization Grant to the State. Tier II projects, ("non-equivalency" projects), refer to all other projects that receive DWSRF financial assistance.

Tier I projects must undergo an environmental review consistent with the National Environmental Policy Act (NEPA). For the DWSRF program, Tier I projects will include:

- projects for which an environmental review consistent with NEPA has already been completed; and
- projects that meet the definition of a NEPA categorical exclusion.

If necessary, additional Tier I Projects will include:

- projects for which applicants have voluntarily undertaken to complete a NEPA equivalent environmental review;

- projects that have a particular environmental significance, due to the nature and scope of the projects; and
- projects for which the environmental review can be considered functionally equivalent to NEPA environmental review, with some minor additional elements.

Tier II projects refer to the environmental review requirements of EQB with additional requirements that may be imposed by the SERP for the DWSRF program. Applicants will be notified by DOH and EQB whether their project(s) proposed for financing through the DWSRF program fall under the category Tier I ("equivalency") of Tier II. Since the enabling Commonwealth law that created the Office of Permits and Management (or OGPe in Spanish) the state environmental review process that is been undertaken is through this agency. DOH in its level of review has always required an environmental review process that complies with the NEPA or is a NEPA-like process as established by or required by the DWSRF program.

## **10.0 ATTACHMENTS AND APPENDIXES**

**SPACE LEFT INTENTIONALLY IN BLANK.**

