

**Emerging Contaminants Program – BIL Funding
Amendment to SFY 2023 SDWLP Intended Use Plan
May 2023**

The Bipartisan Infrastructure Law (BIL), which went into effect on November 15, 2021, includes a new Drinking Water capitalization grant for Emerging Contaminants (EC) in the amount of \$12,877,000. Emerging contaminants are defined by the United States Environmental Protection Agency (EPA) as perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other emerging contaminants. The funding from this grant is required to be awarded as additional subsidy (principal forgiveness) with 25% of the funding (\$3,219,250) required to be awarded to disadvantaged communities (see the [Final SFY 2023 SDWLP Intended Use Plan \(IUP\)](#), pages 13-15). No set-asides will be taken from this grant.

In addition to the EC principal forgiveness (PF), the BIL also appropriated grant funding under section 1459A of the Safe Drinking Water Act for the Small and Disadvantaged Communities program (EC-SDC grants) for emerging contaminants projects. This additional grant funding will be available to municipalities meeting the state's disadvantaged criteria or with a population of less than 10,000; however, this funding will not be available in time for SFY 2023 applicants. EPA released guidance on this additional grant funding in February 2023. In SFY 2024 and beyond, this grant funding will be integrated with funding available through the SDWLP.

Given the limited available funds, the program will focus funding on projects related to PFAS contamination. DNR staff from the Environmental Loans program along with staff from the Bureaus of Drinking Water and Groundwater, Water Quality, and Remediation and Redevelopment, worked together to develop this new funding program.

The DNR understands the urgency to make funding available for PFAS projects as soon as possible, so DNR staff has developed a method for funding EC projects in SFY 2023. Due to timing of the regular SDWLP application deadline, EC projects were not able to be integrated into the normal SDWLP process for SFY 2023, so these projects will be unable to compete for general SDWLP PF in SFY 2023. Regular SDWLP loan funding, in addition to EC PF, will still be available. EC PF percentages awarded for SFY 2023 may be different from EC PF percentages awarded in SFY 2024, with the intent that SDWLP general PF awarded to SFY 2024 projects and the availability of WIIN grant funding for EC projects will balance out the difference.

Starting in SFY 2024, the EC PF funding will be integrated into the regular SDWLP since the PF funding for EC projects will not be sufficient to cover the anticipated needs. This will allow applicants to compete for general SDWLP PF as well as the EC PF, and the EC-SDC grant funding mentioned above, with the remainder of a project being covered by regular SDWLP loan funding.

Project Eligibility

Water system projects that will reduce/eliminate any detectable levels of any PFAS contaminant compound included in any recommended Wisconsin DHS standards and/or Wisconsin DNR maximum contaminant levels in the water system would be considered eligible for funding through the SDWLP and BIL EC programs.

Scoring for Emerging Contaminants Projects

Points for PFAS projects have been added to the regular SDWLP PERF (see Section X of the [SFY 2023 SDWLP Intended Use Plan \(IUP\)](#)). A separate EC PERF has been developed with a scoring system for ranking EC projects for the purpose of allocating EC PF. The points awarded for EC PF scoring will utilize the Wisconsin Department of Health Services PFAS hazard index (H.I.). The hazard index for an applicant will be calculated by taking the concentration of each PFAS contaminant compound and dividing this value by the contaminant compound's corresponding public health groundwater standard; the sum of all resulting ratios will then be added together. Currently there are thirteen PFAS contaminant compounds that have groundwater standards.

The methodology to determine BIL EC project priority score sums three components: Risk to Human Health + Financial Need + System Capacity Affected.

- Risk to Human Health (maximum points 250) - The score would be determined based on the following:
 - for H.I. greater than 0 to 1: H.I. times 100
 - for H.I. greater than 1: (H.I. – 1) times 20 and add 100 points
- Financial Need - the sum of the points from SDWLP Financial Needs Tables 1-6 in the State Fiscal Year (SFY) 2023 Intended Use Plan (IUP) multiplied by 0.5.
- System Capacity Affected (maximum points 40) – 40 points multiplied by the percentage of the system affected. Newly created water system or expansion of an existing water system to serve private wells would be considered 100% system capacity affected. Firm system capacity would be utilized to determine percentage of the system in lieu of system-specific information.
- Priority score tiebreakers will be determined by the population served by the system, with the largest systems being prioritized first and then continuing in descending order.

Emerging Contaminants Principal Forgiveness Allocation for SFY 2023

Once all projects eligible for EC funding are scored and ranked, EC PF will be allocated using a two-pass process, starting at the top of the scoring list.

- Pass 1 - Water systems receive 70% of total project costs as EC PF up to a cap of \$500,000. Once all eligible projects are awarded the first-round allocation, additional EC funding will be allocated in EC priority score order to all projects that have not reached 70% of total project costs in Pass 1.
- Pass 2 - EC PF allocated for 70% of remaining eligible project costs, up to a total EC PF cap per water system of \$5,000,000.

A lifetime EC PF cap may be imposed at a later date.

Due to the proximity of the application deadlines of the SFY 2023 and SFY 2024 EC programs, municipalities that are allocated EC PF in SFY 2023 that also apply for SFY 2024 will have the opportunity to accept either their SFY 2023 or their SFY 2024 EC PF allocation. The SFY23 EC program was set up to meet demand as quickly as possible, and the PF allocation methodology is different between the two funding years. This will allow applicants in both years the flexibility to accept the award that is most favorable to their needs. Any applicant choosing to utilize this option will have to choose which allocation they are using before the final SFY 2024 funding list is posted. Any unallocated or unused EC PF from SFY 2023 will be rolled over into the next year's EC PF funding cycle.

Split projects

If a project removes PFAS contamination in addition to other contaminants, the entire project may be considered eligible for EC PF. This determination will be made by the DNR.

If the entirety of a project is not related to PFAS contamination removal, then only PFAS-related portions of the project would be eligible for BIL EC PF, i.e. parallel cost percentage.

The BIL EC PF is only calculated on the PFAS contamination removal-related costs of the project. The overall PFAS contamination removal-related costs will be calculated by totaling the difference in capital costs with the PFAS removal components included vs. the capital costs of the project without the PFAS removal components.

Eligible Project Types

Eligible project types include all of the following:

- Construction of a new treatment facility or upgrade to an existing treatment facility.
 - * Costs associated with interim solutions/temporary/portable PFAS treatment systems might only be eligible if included with a funding request for a long-term solution. Rental or lease costs are eligible.
- Development of a new source (i.e., new/replacement well or intake for a public water system).
- Consolidation with another water system that does not have emerging contaminants present or has removal capability.
- Creation of a new community water system or extension of a distribution system to address unsafe drinking water provided by individual (i.e., privately-owned) wells or surface water sources.
- Costs for planning, design and associated pre-project costs.
 - * Eligible costs can include an alternatives analysis and non-routine sampling associated with project planning.
 - * Costs are eligible as part of a funding request for a project that provides a long-term solution, not as stand-alone costs.
- Infrastructure related to pilot testing for treatment alternatives.
 - * Costs are eligible as part of a funding request for a project that provides a long-term solution, not as stand-alone costs.
- Rental Costs as a stand-alone project
 - To be discussed on a case-by-case basis
- INELIGIBLE - Bottled water or point of use devices are not an eligible expense per federal program rules.

Application Process

SFY 2023

The SDWLP received five ITA/PERF submittals totaling \$26,947,666 in estimated project costs by the January 20, 2023 deadline. The projects were subsequently scored in priority score order.

Five applications totaling \$26,947,666 in requested funding were received by the application deadline of January 31, 2023. One application received was determined to be incomplete. The four complete applications were allocated \$6,665,409 in principal forgiveness funding. The [SDWLP EC Funding List for SFY 2023](#) is posted on the program website.

The loan closing deadline for SFY 2023 applicants will be September 30, 2024.

SFY 2024

Applicants interested in applying for EC funding in SFY 2024 must have submitted a notice of Intent to Apply (ITA) through our [online portal](#). An EC-specific PERF (Form 8700-399) will be required to be submitted along with the application. The application deadline for SFY 2024 is June 30, 2023. Biddable and approvable plans and specifications are also due to the DNR by the application deadline.

Considering this IUP amendment was published after the SFY 2024 ITA/PERF deadline, flexibility will be offered to municipalities that request a waiver to participate in the SFY 2024 program if the ITA/PERF submittal deadline was missed. These requests must be submitted by May 31, 2023. This flexibility will only apply to SFY 2024.

Detailed descriptions of changes to the SDWLP relating to the implementation of BIL are provided in the [SFY 2023 Intended Use Plan \(IUP\)](#). Details regarding the allocation of funding in SFY 2024 are described in the SDWLP [IUP for SFY 2024](#) that was published for public comment on May 2, 2023.

Federal Requirements

As with any federal funding, the EC funding involves additional federal requirements. All applicants receiving EC PF funds will be treated as federal equivalency projects and will have to comply with the additional federal requirements detailed on our [website](#). In addition to these requirements, all EC projects will be required to:

- Solicit for [Disadvantaged Business Enterprises](#);
- Comply with [Davis-Bacon and Related Acts](#) (federal wage rates);
- Comply with new [Build America, Buy America \(BABA\) Act](#) procurement requirements (see [Adjustment Period Waiver for State Revolving Funds](#) and [Small Projects Waiver](#)). Note that any project that is exempt from BABA under the Adjustment Period or Small Projects waivers would still be required to comply with [American Iron and Steel](#) procurement requirements.
- Erect appropriate [BIL signage](#)

Public Participation Process

This amendment to the SDWLP SFY 2023 Intended Use Plan for Emerging Contaminants was published for a 30-day public comment period from November 21, 2022 through December 21, 2022. The DNR received two sets of comments. A response to all the comments will be posted to the [program website](#). A [webinar](#) discussing the new BIL-funded Emerging Contaminants Program was held on Wednesday, December 14, 2022.