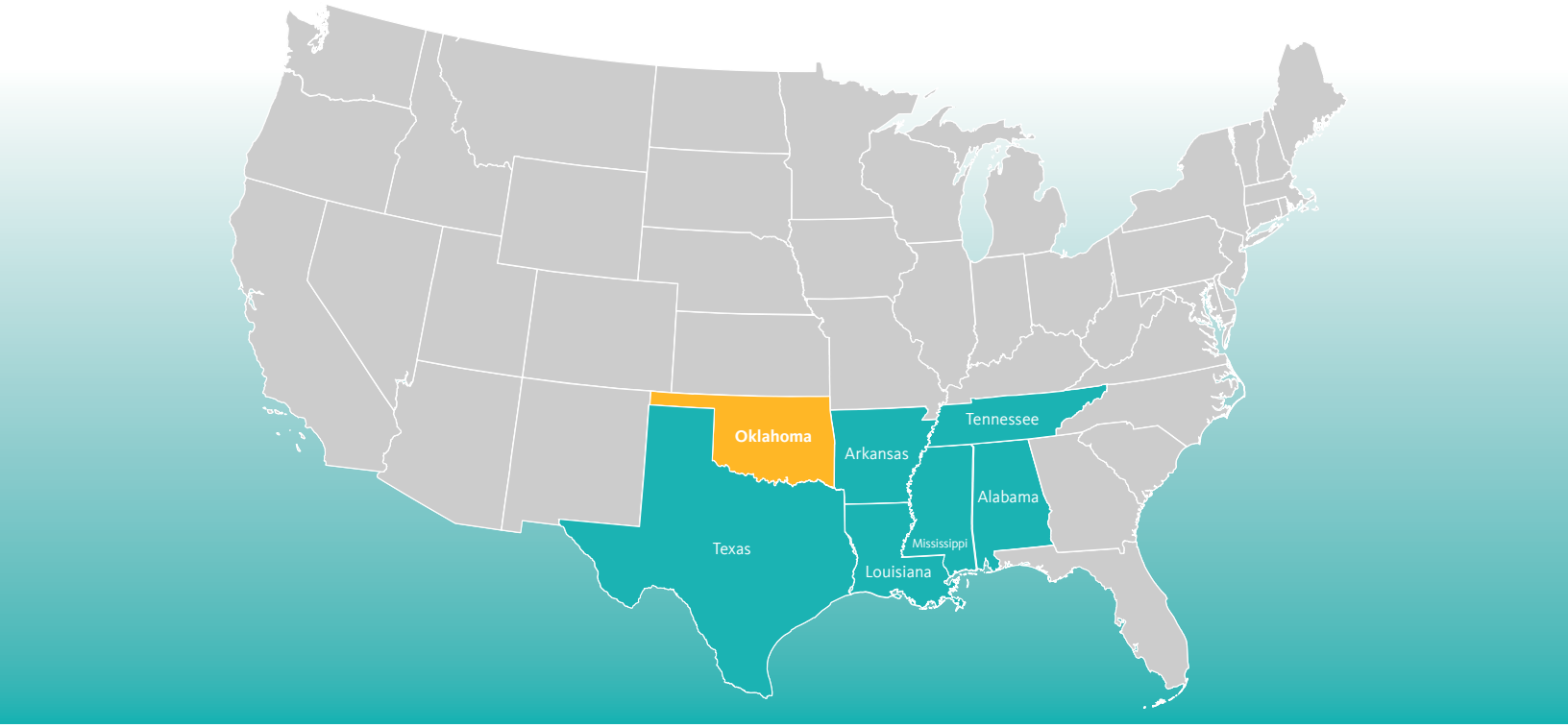

Analysis of the Oklahoma Drinking Water State Revolving Fund and Clean Water State Revolving Fund

Preface

The State of Water Infrastructure

Water infrastructure in the United States is aging and in need of replacement, and many systems are already failing. Estimates suggest $1.25 trillion ($625 billion for Drinking Water infrastructure and $630 billion for Clean Water infrastructure) is needed over the next 20 years to invest in wastewater, stormwater, and drinking water systems. Inadequate investments in water infrastructure has a significant negative impact on the health and well-being of communities, and disproportionately impacts low-income communities and communities of color.

The Bipartisan Infrastructure Law (**BIL**), passed in November of 2021, was the single largest federal investment in water infrastructure to date. Of the $55 billion to be administered by the Environmental Protection Agency (**EPA**), $43 billion is being distributed through the Clean Water State Revolving Fund (**CWSRF**) and the Drinking Water State Revolving Fund (**DWSRF**) over Federal Fiscal Year (**FFY**) 2022–2026. Although 49% of these funds must be distributed to "disadvantaged communities" as grants or forgivable loans (rather than loans that need to be repaid), communities with the greatest need still face several barriers in accessing these funds. Interventions to address these barriers include reforms to State Revolving Fund (**SRF**) policies that determine how SRF funds are allocated to communities within each state.

Why and How This Project Came to Be

In early 2023, PolicyLink started its three-year "Southern State Revolving Fund (**SRF**) Analysis and Advocacy Project" to help ensure equitable implementation of BIL SRF funds and base SRF programs in the South. In focusing on the South, we recognized that the racial and economic disparity in clean and affordable water is particularly pronounced there and that there was a need for strong community-based advocacy.

This project consists of two main phases:

- **Phase I: Analyses of DWSRF and CWSRF Across Seven Southern States**
  In early 2023, PolicyLink partnered with the Environmental Policy Innovation Center (**EPIC**) to train and support policy analysts across seven southern states (Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas) to conduct equity analyses of each state's Clean Water and Drinking Water State Revolving Fund. These analyses are being used to inform advocacy in Years Two (2024) and Three (2025) of the project.

- **Phase II: Community-Based-Organization (CBO) Led Advocacy Across Four States**
  Of the seven states, PolicyLink selected four states—Alabama, Louisiana, Tennessee, and Texas—for Phase II (supporting CBO-led SRF Advocacy). These represent two states from EPA Region Four (Tennessee and Alabama) and two states from EPA Region Six (Louisiana and Texas). PolicyLink selected a cohort of 16 CBOs (Four CBOs per state) to undergo SRF Advocacy training (administered by River Network) and supports them in their state and regional SRF advocacy efforts.

This document is part of the larger series of SRF program analyses (Phase I deliverables) developed by individual consultants, with guidance from PolicyLink and the Environmental Policy Innovation Center (**EPIC**).

To learn more about the project and/or to access other material related to the state analyses, please see the project site.

Acknowledgments

For the first phase of this project, we want to thank our partner, Janet Pritchard, from the Environmental Policy Innovation Center (**EPIC**), for providing a template for conducting the equity analyses, training our consultants, and reviewing each of the state outputs. We also want to thank our individual consultants who conducted analyses of SRF programs within their states:

- **Alabama:** Victoria Miller and Cindy Lowry, Alabama Rivers Alliance
- **Arkansas:** EPIC
- **Louisiana:** Rebecca Malpass, The Water Collaborative of Greater New Orleans
- **Mississippi:** Dr. Christine Curtis, Grow Where You're Planted
- **Oklahoma:** EPIC
- **Tennessee:** Grace Stranch and Anne Passino, Harpeth Conservancy
- **Texas:** Danielle Goshen (while at National Wildlife Federation)
- **Regional Overview:** Danielle Goshen, EPIC

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Abbreviations Sheet

AMHI – Adjusted Median Household Income

APCI – Adjusted Per Capita Income

ASCE – American Society of Civil Engineers

BIL – Bipartisan Infrastructure Law

CBA – Community Benefit Agreement

CBO – Community-Based Organization

CBP3 – Community-Based Public-Private Partnership

CDC – Centers for Disease Control and Prevention

CWSRF – Clean Water State Revolving Fund

DAC – Disadvantaged Community

DEQ – Department of Environmental Quality

DWSRF – Drinking Water State Revolving Fund

EC – Emerging Contaminants

EJScreen – Environmental Justice Screening Tool

EPA – Environmental Protection Agency

EPIC – Environmental Policy Innovation Center

FFY – Federal Fiscal Year

FPL – Federal Poverty Level

HBI – Household Burden Indicator

IIJA – Infrastructure Investment and Jobs Act

IUP – Intended Use Plan

LQI – Lowest Quintile Income

LSLR – Lead Service Line Replacement

MHI – Median Household Income

MMD – Municipal Market Daily

OWRB – Oklahoma Water Resources Board

PCI – Per Capita Income

PF – Principal Forgiveness

PPI – Poverty Prevalence Indicator

PPL – Project Priority List

SFY – State Fiscal Year

SRF – State Revolving Fund

SVI – Social Vulnerability Index

TA – Technical Assistance

Contents

I. Introduction

In 2021, the U.S. Congress passed the Infrastructure Investment and Jobs Act (**IIJA**) also known as the Bipartisan Infrastructure Law (**BIL**), allocating $50 billion over five years to the Environmental Protection Agency's (**EPA**) existing State Revolving Fund (**SRF**) programs, consisting of the Drinking Water State Revolving Fund (**DWSRF**) and the Clean Water State Revolving Fund (**CWSRF**).[1] Funds available under the IIJA have represented a massive opportunity for Oklahoma to transform its water infrastructure landscape—with an estimated $253 million provided to improve drinking water and wastewater systems.[2] In Oklahoma, the Oklahoma Water Resources Board (**OWRB**), Financial Assistance Division is the administering agency for the CWSRF programs, while the Department of Environmental Quality (**DEQ**) administers the DWSRF program with help from the OWRB for use of set-asides.

The OWRB and DEQ articulate how they intend to administer the SRF programs through annual Intended Use Plans (**IUPs**). Contained within the IUPs are specific information about: eligible project types; eligible applicants; the types of funding and financing available; project ranking or prioritization; and funding available for technical assistance, among other key policy decisions. In addition to the general DWSRF and CWSRF programs, the DWSRF IUP covers the DWSRF Emerging Contaminants (EC) program and DWSRF Lead Service Line Replacement (**LSLR**) program, while the CWSRF also covers the CWSRF Emerging Contaminants (**EC**) program.

- Drinking Water State Revolving Fund SFY 2024 IUP **(Draft)**
- Clean Water State Revolving Fund SFY 2024 IUP **(Final)**[3]

Note that while the CWSRF SFY 2024 IUP has been approved, the DWSRF IUP for 2024 has not yet been approved by the EPA at the time of this report. **Therefore, all recommendations that relate to the DWSRF are all based on the Draft DWSRF SFY 2024 IUP, as it is still awaiting approval by the EPA.**

Oklahoma should utilize the historic SRF funds to address key drinking water and wastewater concerns in the state. The American Society of Civil Engineers (**ASCE**) gave Oklahoma a D+ in drinking water and wastewater infrastructure, highlighting that major investments are needed to bring communities access to dependable water resources.[4] Among other issues, the SRFs in Oklahoma can be used to address the following infrastructure problems such as:

- **Water Supply and Drought**—The state has experienced extreme drought conditions, pushing parts of Oklahoma into severe water scarcity. The Oklahoma Climatological Survey indicates that future summers are likely to be hotter and drier, affecting water supplies. Additionally, there's a concern about the depletion of aquifers, notably the Ogallala Aquifer, crucial for both drinking water and agriculture in the Great Plains. This depletion is exacerbated by agricultural irrigation demands and the lack of sufficient rainfall to replenish these water sources.[5]

- **Agricultural Water Usage**—Oklahoma, along with other states overlying the Ogallala Aquifer, faces challenges in managing water usage for agriculture. The state does not require irrigators to meter their water usage, relying instead on an honor system. This has raised concerns about the sustainability of water use for irrigation, particularly as some crops require significantly more water than what is officially allotted. There's an ongoing debate about the need for more stringent regulations and monitoring to ensure the long-term viability of water resources for agriculture.[6]

- **Water Quality in Rural Towns**—Many rural towns in Oklahoma struggle with maintaining clean water due to outdated infrastructure and funding shortages. Residents in towns like Hobart have reported issues with water that sometimes smells like chlorine or rust and occasionally comes out brown. Despite being compliant with Environmental Protection Agency standards, the persistent problems highlight the challenges small towns face in providing safe, clean water to their residents.[7]

In addition to addressing main concerns over Oklahoma's drinking water and wastewater concerns, while states are given significant leeway in administering SRF funds, there was a particular focus through IIJA on the use of these funds to benefit "disadvantaged communities" (or **"DACs"**). In particular, states must ensure that at least 49% of the funds provided under IIJA ("additional capitalization") go towards projects in these communities as principal forgiveness under the general DWSRF and CWSRF programs. Meanwhile, under the DWSRF Emerging Contaminants program, 25% of principal forgiveness must be provided to DACs, and 49% of the DWSRF LSLR principal forgiveness must be provided to DACs (see **Image 1**, below). In addition to these federal requirements, investments in dis- and under-served communities in Oklahoma is essential to ensuring safe, affordable, and clean water for all communities.

Image 1: BIL SRF Funding Details[8]

SRF Funding Program	Total Funding	State Match	Additional Subsidy	Eligible for Additional Subsidy
Clean Water SRF Supplemental	$11,713,000,000	10% in 2022 & 2023 20% in 2024–2026	49%	Assistance recipients that meet the state's affordability criteria or project types as described in section 603(i) of the CWA
Drinking Water SRF Supplemental	$11,713,000,000	10% in 2022 & 2023 20% in 2024–2026	49%	Disadvantaged Communities
Clean Water Emerging Contaminants	$1,000,000,000	0%	100%	No restriction
Drinking Water Emerging Contaminants	$4,000,000,000	0%	100%	25% for Disadvantaged Communities or Public Water Systems Serving Fewer Than 25,000 Persons
Drinking Water Lead	$15,000,000,000	0%	49%	Disadvantaged Communities

To this end, the OWRB and DEQ have incorporated multiple policy choices into the DWSRF and CWSRF programs that effectively promote resiliency and the equitable distribution of resources to communities most in need. Among others, we support the following policy decisions:

- Both DWSRF Draft and CWSRF Programs
  - Use of a tiered system to determine severity of need, amount of principal forgiveness provided, and amount of prioritization points available for DACs

- DWSRF (Draft)
  - Commitment to promoting and furthering Justice40[9] initiatives, targeting funds to DACs, and encouraging climate resilient projects through DWSRF goals
  - Utilizing the full amount of set-asides

- CWSRF
  - Commitment to review and adjust the Affordability Criteria strategy if necessary to appropriately represent the communities across Oklahoma through a CWSRF goal
  - Providing up to 100% principal forgiveness for Tier 1 entities, representing those with the biggest affordability concerns

However, more can be done in Oklahoma to help communities access SRF funding and invest in essential projects in the areas that need it most. The following policy recommendations are additional ways Oklahoma can improve equitable outcomes through its SRF programs and to increase program transparency and accessibility.

II. State Revolving Fund (SRF) Goals

The OWRB (**CWSRF**) and DEQ (**DWSRF**) are required to develop goals to help guide the implementation of SRF funding. Goals under Oklahoma's SRF programs are divided into short-term and long-term goals. As noted above, we are particularly encouraged with the draft DWSRF goals around Justice40 and climate resilient projects. However, we encourage additional goals to help guide the agency when navigating policy choices throughout the IUP. The SRF goals could be improved by adding goals prioritizing the following:

- Adding a goal prioritizing **Green infrastructure**, **sustainable,** and **resilient** projects to the CWSRF;
- Encourage projects that invest in **workforce development** in both SRF IUPs; and
- Incentivising projects that will lead to increased **water affordability** in both SRF IUPs.

While we strongly recommend incorporating the revision and additional items into the SRF program goals, we also believe that these goals need to be supported throughout the rest of the IUP.

III. Program Accessibility and Transparency

The IUPs should strive to be transparent and user-friendly in order to help provide clear guidance to potential applicants and stakeholders. The following subsections provide recommendations on how to improve the organization and communication of the IUPs.

Recommendation 3A:

Provide Information on the Project Priority Lists (PPLs) About How Much Principal Forgiveness is Estimated

Under the DWSRF and CWSRF, the IUP Fundable List includes projects which meet all requirements for funding. We encourage the DEQ and OWRB to provide information on how much principal forgiveness each entity is eligible to receive on these lists. As the principal forgiveness available is finite and there is a need to spend these funds appropriately, providing this information will increase transparency and will provide important information to stakeholders when considering applying for funding or advocating for program changes to the IUP.

Recommendation 3B:

Provide Information on Whether an Entity Meets the Affordability Criteria (CWSRF) on the Project Priority List (PPL)

While the DEQ provides information on whether an applicant qualifies as a DAC under the DWSRF, the same is not provided for entities that meet the affordability criteria under the CWSRF. We encourage the OWRB to include this information under the Fundable Projects lists.

IV. Improve Disadvantaged Community (DAC) and Affordability Criteria Policies

One of Oklahoma's primary goals for the distribution of funds under the SRF programs should be to prioritize funding to disadvantaged and historically dis- and under-invested communities. While there is this need to precisely construct the DAC policies (under the DWSRF) and affordability criteria policies (under the CWSRF) are too narrow. However, there are multiple policy recommendations that can be incorporated into these definitions to ensure the SRF programs are accessible to communities most in need. The following recommendations are aimed at improving the DAC and Affordability Criteria policies.

Recommendation 4A:

Modify Disadvantaged Community (DAC) and Affordability Criteria

Under the DWSRF, a "Disadvantaged Community" means those communities which serve a population whose Median Household Income (**MHI**) is greater than 80% but less than 90% of the national MHI according to the United States Census Bureau/ American Community Survey. Communities serving a population whose MHI is less than 80% of the national MHI according to the United States Census Bureau/American Community Survey will be designated as "Severely Disadvantaged Communities" and hence will receive 60 priority points instead of the 40 points reserved for Disadvantaged Communities. MHI is based on the most recent 5-year average of median household income from United States Census Data or through a household income survey acceptable to DEQ.

On the other hand, under the CWSRF the Oklahoma Water Resources Board (**OWRB**) employs specific formulas to assess the affordability criteria for towns in Oklahoma concerning the Clean Water State Revolving Fund (**CWSRF**). To calculate an entity's Adjusted Per Capita Income (**APCI**), the formula multiplies the Per Capita Income (**PCI**) by the employment rate and a population change trend, using 2010 census data for comparison. The APCI is then compared to the U.S. average APCI to determine the entity's percentage of APCI, which is crucial for ranking and tier classification. The four tiers categorize communities based on their APCI as a percentage of the U.S. APCI:

- Tier 4: APCI 81% or more
- Tier 3: APCI 71% to less than 81%
- Tier 2: APCI 56% to less than 71%
- Tier 1: APCI 55% or less

These tiers help OWRB assess the financial affordability of water infrastructure projects for communities across Oklahoma.

There are multiple parts to the DWSRF and CWSRF DAC and Affordability criteria that we believe allow the state to identify communities in need of investments under the SRFs. In particular, we support the tiering of DACs under both the DWSRF and CWSRF, to differentiate between levels of disadvantage.

However, we encourage the OWRB and DEQ to expand the DAC and Affordability Criteria in order to have a more holistic approach towards identifying communities in need. As noted above, under the DWSRF only MHI is considered when determining whether a community should be eligible as a DAC, while the CWSRF includes Per Capita Income, unemployment and population data into its Affordability Criteria. Both of these definitions are limited in scope, and can be refined and expanded in order to identify communities most in need for prioritization of principal forgiveness.

One approach that can be used under both the DWSRF and CWSRF is to incorporate multiple factors to create a DAC Score. A DAC Score would look at different factors that lead to a community meeting the DAC definition or affordability criteria, each of which can be weighted appropriately based on their importance and relevance to the program. Once factors have been chosen for the DAC score, points can be provided for each factor utilizing a scaled approach. Then, after all factors have been considered, OWRB and DEQ can tier different levels of disadvantage based off of total score.

The following subsections will provide recommendations on different factors that the OWRB and DEQ should consider.

i. Replace current Adjusted Median Household Income (**AMHI**) (**DWSRF**) and Adjusted Per Capita Income (**APCI**) (**CWSRF**) Criteria with a Household Burden Indicator and Poverty Prevalence Indicator

When considering factors to be included in the DAC Score, we suggest tweaking the current DAC definition (DWSRF) and affordability criteria (CWSRF) to better identify areas of disadvantage.

One reason for improvement is that current criteria relies too heavily on MHI and APCI. For example, while service-area MHI is a good indication of the fiscal capacity of the water system, it is a poor measure of water affordability at the household level. Measuring affordability based on the average income level of a community does not indicate if substantial segments of residents, or even a majority of residents, can afford water services. Over-reliance on MHI risks masking overburdened communities in water systems that serve affluent communities as well as low-income, low-wealth communities, because one will offset the other to arrive at an MHI that does not reflect household water affordability challenges for substantial segments of residents. Because these low-income communities will be overlooked, affordability criteria that turn primarily on MHI are likely to be underinclusive.

Through literature review and stakeholder outreach (that included utilities, low-income advocacy groups, and academics, among others) the American Water Works Association (**AWWA**) developed a report in 2019 evaluating various affordability metrics and proposing a new framework for measuring household and community affordability in order to improve the EPA's own household and community affordability indicators. Through this research, AWWA recommended, as an alternative to the EPA's Residential Indicator, which assessed service cost per household as a percentage of AMHI for the service area, the following indicators:

- Household Burden Indicator (**HBI**): Total basic water service costs (combined) as a percent of the 20th Percentile of Community Household Income (the lowest quintile income, **LQI**); plus

- Poverty Prevalence Indicator (**PPI**): The percentage of community households at or below 200% of federal poverty level (**FPL**).

The rationale for these metrics is that HBI reflects the economic burden that relatively low-income households in that community face, and the PPI reflects the degree to which poverty is prevalent in the community. Therefore, in combination, the metrics provide an improved assessment of household-level burden and a community-based level of prevalence of the affordability challenge posed by water sector costs. [10]

As it relates to HBI, the AWWA recommends that if combined water costs are below 7%, affordability may be deemed low burden; between 7–10% of service area LQI, water costs should be deemed high burden and potentially unaffordable; and above 10%, water services are highly burdensome and not affordable.

For the PPI, if a community has less than 20% of households below 200% of the FPL, then that community may be relatively affluent, while having greater than or equal to 35% of households meeting the 200% FPL threshold would indicate higher levels of poverty.

As the HBI and PPI provide better indicators of economic burden, we suggest utilizing these metrics instead of the current formulations used by the OWRB and DEQ to determine DACs.

ii. Consider Using Social Vulnerability Index (**SVI**) as an Additional Disadvantaged Community (**DAC**) Factor Under the Drinking Water State Revolving Fund (**DWSRF**)

We believe that the DEQ should strongly consider the use of social vulnerability scores to identify an additional approach for communities to qualify as disadvantaged. As per the Centers for Disease Control and Prevention (**CDC**), social vulnerability pertains to the potential adverse impacts on communities resulting from external stresses on human health, encompassing natural or human-induced disasters, as well as disease outbreaks. A higher Social Vulnerability score results in a higher Risk Index score.

While acknowledging that the social vulnerability index is not a flawless metric, it can effectively serve as a proxy for recognizing historically marginalized and overburdened communities. Leveraging this index can therefore pave the way for the equitable allocation of resources and benefits to these underprivileged communities in the hopes of increasing the resilience of these communities. Therefore, we recommend adding SVI to the list of factors utilized when determining a community's DAC score, with areas of higher social vulnerability eligible for more points. This will help promote a fairer and more inclusive distribution of resources, ultimately contributing to the overall well-being and resilience of these communities.

iii. Consider Using the Environmental Protection Agency's (**EPA**'s) Environmental Justice Screening Tool (**EJScreen**) as an Additional Factor Under the Clean Water State Revolving Fund (**CWSRF**) Affordability Criteria

The EPA's Environmental Justice mapping and screening tool (**"EJScreen[11]"**) creates a nationally consistent dataset and approach for combining environmental and demographic socio-economic indicators. While the CDC's SVI ranking predicts how vulnerable a population may be due to demographic data, the EJScreen is more suited as an additional indicator used to identify DACs under the CWSRF as it has the additional benefit of considering areas that may have potential environmental quality issues.

For example, under the Environmental Justice Indexes, the wastewater discharge layer shows block groups with the highest intersection of five socioeconomic factors and wastewater discharges, which uses Risk-Screening Environmental Indicators (**RSEI**) modeled toxic concentrations at stream segments within 500 meters, divided by distance in kilometers (**km**).[12] This layer represents the amount of toxic chemicals released from industrial and federal facilities as well as each chemical's relative toxicity, or the potential impacts it could have on human and environmental health.[13] As the CWSRF program works to offer funding and financing for a wide variety of water quality projects, projects in areas already experiencing environmental quality issues should be prioritized for principal forgiveness. Areas with higher water quality concerns, as indicated by EJScreen should be eligible for more points under the DAC Score.

Recommendation 4B:

Provide a Waiver for Interest Rate Risk Fees Based on Maturity for Disadvantaged Borrowers

Under the DWSRF IUP, the DEQ provides long-term financing loans for both small and large public drinking water systems at an interest rate equal to 70% of Municipal Market Daily (**MMD**) AAA scale spot rates plus 0.40% to 0.76% to account for interest rate risk, where 0.40% is charged on the shortest maturities and 0.76% is charged on the longest maturities. An additional 0.50% administrative fee is charged on the unpaid principal balances. The interest rate calculation is reviewed annually by the DEQ and is subject to change on future loans. The same terms are seen under the CWSRF, however 60% of MMD AAA scale spot rates are used instead.

While variable interest rates can be utilized to distribute limited funds effectively, we are concerned that incentivising quick repayment of loans through reduced interest rates may exacerbate barriers to disadvantaged borrowers. In other words, disadvantaged communities that may struggle with repaying loans quickly will be penalized for allowing the loans to mature. We recommend waiving the interest rate risk fees for disadvantaged borrowers, especially severely disadvantaged ones, if the fee would place too big a strain on those communities.

Recommendation 4C:

Consider Alternatives to the Caps on Principal Forgiveness

Under the BIL DWSRF General Supplemental funds and the Base DWSRF program, there is a maximum of $1,000,000.00 of loan forgiveness/grant per entity per fiscal year except for small and disadvantaged systems where the maximum loan forgiveness/grant available is $1,200,000.00, subject to availability. As for the CWSRF, the maximum loan forgiveness amount is up to $1 million per entity, per SFY and may require a cost share depending on tier of affordability criteria (as seen in **Table 1** below).

We believe that the cap on principal forgiveness available to DACs under the DWSRF and CWSRF programs will pose a significant barrier for dis- and under-invested communities. While we understand the desire to spread principal forgiveness out among applicants, many communities will not be able to utilize SRF funding due to these principal forgiveness caps when they must repay a significant portion of the funding back as a loan. This is because many of the projects are in excess of the caps provided under the DWSRF and CWSRF IUPs.

Table 1: DWSRF and CWSRF Principal Forgiveness Terms[14]

SRF Program	Applicant Category	Amount of Principal Forgiveness Available—General Program	Amount of Principal Forgiveness Available—LSLR
DWSRF	Non-DACs projects benefiting areas of low income (below 90% NMHI), minorities and/or people of color	Up to $800,000	Up to 100% loan forgiveness of the cost for the project in that area
	Disadvantaged Communities serving 10,000 people or fewer	Up to $800,000*	Up to 100% loan forgiveness for eligible projects and costs
	Disadvantaged Communities serving more than 10,000 people	25% of the loan amount or $1,000,000.00, whichever is less as loan forgiveness*	33% of the loan amount, or $2.5M, whichever is less as loan forgiveness
	Disadvantaged and Severely Disadvantaged Communities seeking funding for regionalization/consolidation	Up to 100% loan forgiveness	—
CWSRF	**Tier 1 Projects**—APCI 55% or less of U.S. APCI	100% of project cost eligible for loan forgiveness	—
	Tier 2 Projects—APCI more than or equal to 56%, but less than 71% of the U.S. APCI	75% of project cost eligible for loan forgiveness	—
	Tier 3 Projects—APCI more than or equal to 71%, but less than 81% of the U.S. APCI	50% of project cost eligible for loan forgiveness	—
	Tier 4 Projects—APCI ≥81% or more of U.S. APCI (municipality that does not meet the state's affordability criteria but will benefit individual ratepayers)	Maximum loan forgiveness amount of $500,000 for eligible project costs for Tier 4 entities per entity, per SFY	—
	To any eligible recipient to implement a process, material, technique, or technology that addresses water or energy efficiency goals; mitigates stormwater runoff; or encourages sustainable project planning, design, and construction.	Maximum loan forgiveness amount of $500,000 for eligible project costs per entity, per SFY. Can be additive to the amount for affordability criteria if awarded.	—

Instead of imposing the cap on principal forgiveness, there are multiple alternative approaches to increase equitable distribution of funds. The Environmental Policy and Innovation Center (**EPIC**) has provided multiple alternative approaches that Oklahoma should consider in place of its principal forgiveness caps[15]:

- **Alternative 1**: Equitably distribute PF through several rounds until PF is exhausted. Available PF could be distributed to eligible applicants over two to four rounds of PF distribution. For example, if PF were distributed over the course of three rounds, each community could be awarded an amount equal to 1/3 of the percentage of project costs for which the community is eligible.

- **Alternative 2**: Waive the cap on PF in the event of unaffordable water rates or if taking on SRF loans would cause the applicant to exceed its debt limit. US EPA recommends prioritizing PF for systems where combined water and sewer drinking water rates are greater than 2% of the 20th percentile household income (i.e., the lowest quintile of income for the service area). Where water rates charged by the applicant water system already exceed the affordability threshold proposed by US EPA, Oklahoma could waive the flat cap on PF. In addition, an applicant water system should be able to anticipate where the rate increase needed to pay for the proposed water project would require water rates to be increased above the affordable water rate burden threshold. Where the water system can demonstrate that this would be the case, the flat cap on PF should likewise be waived. The cap should also be waived where the difference between the amount of PF the applicant would be eligible for and the amount it would receive under the flat cap would require the applicant to borrow funds in excess of its debt limit.

- **Alternative 3**: Reserve a portion of general PF for small communities, with the remainder of general PF available to large and small communities alike. The flat cap proposed by states is likely motivated by concern that, in the absence of the cap, all of the available general PF could be gobbled up by just a few large projects, leaving no general PF remaining for small communities that struggle to pay for needed water infrastructure projects. To address this concern without systematically undermining an equitable allocation of general PF to larger water systems that qualify for a substantial amount of general PF, Oklahoma could reserve a portion of General PF for small, rural systems—up to as much as 70% of available general PF—with remainder available to large and small systems alike without the imposition of a flat cap.

We strongly recommend that one of these alternatives above is utilized under the DWSRF and CWSRF IUPs in order to ensure that the cap on principal forgiveness is not leaving communities behind.

Recommendation 4D:

Provide Exception on Minimum Debt Coverage Requirement for Projects Financed with 100% Principal Forgiveness under Drinking Water State Revolving Fund

To qualify for a DWSRF loan, an applicant must meet a minimum debt coverage requirement of 1.25 times the cost of the loan. The CWSRF has the same minimum debt coverage requirement, however there's an exception for projects financed with 100% principal forgiveness. We strongly suggest incorporating the same exception into the DWSRF program, as there is no need for projects to show debt coverage on projects with 100% principal forgiveness.

V. Utilize All State Revolving Fund (SRF) Funds

Under the DWSRF Program, the DEQ does not plan to apply for the FFY 2023 LSLR Capitalization Grant approved by Congress. Instead, DEQ stated in the draft IUP that it plans to expand and utilize funds made available by FFY 2022 LSLR Capitalization Grant. By not applying for the FFY 2023 LSLR Capitalization Grant, many projects on the LSLR PPL will not get funded. Under the SFY 2024 Draft DWSRF IUP, there are 22 projects totalling $81,290,098. However, the federal grant carryover from FFY 2023 only amounts to $31,300,000 with $10,300,000 of that used as set-asides. Therefore, very few of the LSLR projects under this draft IUP will receive funding.

Moving forward, we strongly recommend utilizing all LSLR funding available. This is strongly recommended because there is currently more need for funding than the DEQ can provide, only utilizing carryover funding. Further, the DEQ can use set-aside funds to help communities with their LSLR inventories at no cost to them. This can help identify further LSLR projects, and can help communities in future rounds of LSLR funding.

VI. Revise Project Ranking Criteria

In addition to refining the DAC and Affordability Criteria policies discussed above, there are multiple ways the prioritization scheme can be improved to better prioritize not only DACs, but projects more broadly. Properly prioritizing projects will ensure that SRF funding can effectively address particular water concerns facing Oklahoma communities. The following sections will provide recommendations on how to improve both the Draft DWSRF and CWSRF project ranking criteria to ensure improved program outcomes.

Recommendation 6A:

Rank Emerging Contaminants (EC) Program Projects Separately from General Projects Under the Clean Water State Revolving Fund (CWSRF)

Under the DWSRF, the general, emerging contaminants, and LSLR projects are all ranked separately. However, under the CWSRF IUP, the general and Emerging Contaminants projects are all ranked together. We recommend ranking the general and emerging contaminants projects separately in the CWSRF, as is done under the DWSRF. As will be discussed in the following subsections, this will allow separate ranking to occur for the general, LSLR, and emerging contaminants programs. This is especially important for the LSLR and emerging contaminants programs as unique prioritization criteria applicable to LSLR and emerging contaminants projects should be applied to those programs.

Recommendation 6B:

Revise Ranking Criteria for All Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) Programs

The following subsections will provide recommendations that apply to all CWSRF and DWSRF programs.

i. Provide Ranking Points Based on Disadvantaged Community (DAC) Score

Currently, under the DWSRF:
- Severely Disadvantaged Communities receive 60 priority points.
- All other DACs receive 40 points.

Under the CWSRF:
- Tier 1 projects receive 30 points.
- Tier 2 projects receive 20 points.
- Tier 3 projects receive 10 points.
- Tier 4 projects receive 0 points.

While we appreciate Oklahoma's sliding scale approach to prioritizing projects based on the level of disadvantage, we recommend assigning priority ranking points based on the DAC Score developed under **Recommendation 4(A)**. This approach would ensure that the ranking criteria reflect the additional factors incorporated into the DAC Score.

ii. Provide Project Ranking Criteria for Green Projects in Proportion to Green Costs

"Green infrastructure" encompasses natural features and solutions that mimic, use or restore natural ecological processes. These methods are aimed at lessening the effects of flooding and diminishing the amount of pollutants and debris entering water bodies. Green infrastructure enables water to be absorbed by soil and plants, rather than allowing it to enter groundwater or surface water, thus preventing water from overwhelming sewer systems and reducing sewer overflows. Green infrastructure, whether used independently or in conjunction with traditional gray infrastructure, offers economical and sustainable measures to address various natural threats, such as drought, fire mitigation, and flooding.

We recommend that the DWSRF and CWSRF programs provide further incentives for entities to apply for green projects through providing ranking points during project prioritization under both the DWSRF and CWSRF. In order to incentivize projects with the most green benefits, we recommend providing points to green projects in proportion to costs associated with nature-based components compared to total project costs.

iii. Include a Project Ranking Criterion for Projects that Invest in Workforce Development

According to the EPA, there are multiple challenges for the water sector workforce.[16] These challenges include:

- Aging Workforce—Many workers eligible to retire in the next decade
- Training—Training to keep workforce up to date as technology rapidly advances across the sector
- Lack of Diversity—Industry lacking gender and racial diversity, especially in skilled trade positions
- Workforce Shortage—Difficulties recruiting, training, and retaining trained operators in rural and tribal areas

In order to incentivize applicants to address these issues, the OWRB and DEQ can provide prioritization points for projects that promote workforce development in the water sector. Examples of ways a project can show workforce development can include hiring a certain percentage of local employees or providing on the job training and skill development, among others.

Recommendation 6C:

Reduce the Points Available for Projects Ready to Proceed Under the Clean Water State Revolving Fund (CWSRF)

Under the CWSRF, a maximum of 400 points are given to projects that are ready to proceed. However, projects can be bypassed if it is determined that the project is not ready to proceed during a funding year. While we understand the desire on behalf of the OWRB to have projects completed quickly, we are concerned that 400 points towards projects ready to proceed too heavily weights these projects for funding. This criteria is by far the largest points category, with the next highest points category being the Project Type Factor, with a maximum of 70 points available for projects addressing human health violations. Because 400 points massively skews project prioritization, we recommend reducing the points available for projects ready to proceed from 400 points down to 10-30 points, ensuring that projects that are urgently needed, such as those addressing human health violations are addressed first. In conjunction with this recommendation, **Recommendation 7(A)** urges the OWRB to provide planning loans for projects that are bypassed if they are not ready to proceed.

Recommendation 6D:

Provide Tailored Ranking Criteria for Lead Service Line Replacement (LSLR) Projects

As recommended above, the LSLR projects are ranked on the same list as the general DWSRF projects. This does not make sense for multiple ranking criteria. We suggest providing a separate ranking list and criteria for the LSLR projects to properly account for the differences between regular drinking water infrastructure projects and projects working to replace lead service lines. We strongly encourage the DEQ to go through the current DWSRF priority points list and remove categories that do not make sense for LSLR Projects. Among others, this could include removing criteria such as quantity deficiencies and design deficiencies.

Currently, there are 30 points available for projects that have lead contaminants. However, in theory, all LSLR projects should have lead as a contaminant. Therefore, we recommend further priorities to properly incentivize LSLR projects.

i. Incentivize Rapid Replacement of Lead Service Line Replacement (LSLR) Through Ranking Criteria Providing Points on a Sliding Scale

We believe that quick replacement of LSLR should be prioritized through the DWSRF LSLR program. Rapid replacement is important because lead is a toxic metal that can be harmful to humans at even a low exposure level, causing the EPA to set maximum contaminant level goal at zero as there is no safe amount that can be present in our drinking water.[17]

In order to remove lead service lines as quickly as possible, we strongly recommend DEQ to add a criterion that prioritizes projects that would deliver rapid LSLR. For example the DEQ could provide points to projects that ensure 100% line replacement within x number of years. For larger systems where 100% replacement may not be feasible within a quick time frame, 25 points could be eligible for projects that ensure x number of lines (minimum 500) or x% (e.g., 10%), whichever is larger, of the system's LSLs are replaced per year. We recommend that points be provided on a sliding scale, providing more points to projects that ensure the quickest line replacement.

ii. Add Additional Ranking Criteria Aimed at Prioritizing Projects in Vulnerable Subpopulations, Including Percent of Children Under Five Years of Age

There are numerous subpopulations that are particularly vulnerable to lead exposure. Unfortunately, some of the characteristics of subpopulations are not systematically quantified through for example, American Community Survey data. For example, the CDC has identified pregnant parents and immigrant and refugee children from less developed countries as particularly vulnerable subpopulations. Gathering statewide data on these subpopulations may be difficult and potentially problematic. However, the need to replace lead service lines is urgent, as lead is a neurotoxin that can damage the brain and cause lifelong developmental and behavioral problems in children.

According to the CDC, children less than six years old are at a higher risk of lead exposure.[18] Luckily, the ACS collects data on percent of persons under five years of age. We therefore recommend prioritizing communities with large populations under five years of age, to better target communities most at risk. Points can also be provided on a sliding scale, providing more ranking points to areas with greater populations of children under five years of age.

Recommendation 6E:

Provide Tailored Ranking Criteria for Emerging Contaminants (EC) Projects

Similar to the LSLR recommendations above, there are multiple ranking criteria under the DWSRF and CWSRF IUPs that do not pertain to EC projects. We encourage the DEQ and OWRB to go through the current priority points criteria and remove categories that do not make sense for EC Projects, when creating a separate ranking list for EC projects. In addition to tailoring the current ranking to EC projects, we encourage the DEQ and OWRB to consider the following ranking criteria.

i. Add Additional Project Ranking Criteria for Vulnerable Populations

There are numerous subpopulations that are particularly vulnerable to PFAS exposure. The EPA has identified children, pregnant parents, and some industrial workers as particularly vulnerable subpopulations. While we are not aware of statewide data on the second two of these subpopulations, the ACS collects data on percent of persons under 18 years of age. We believe that prioritizing communities with large populations under 18 years of age will better target communities most at risk to PFAS exposure, and therefore those that will benefit most from the Emerging Contaminants programs.

Additionally, distance from former and current military sites correlates with PFAS exposure, due to the use of firefighting foam on bases. We recommend adding a ranking criteria for distance from military bases to address these areas of high exposure. The DEQ and OWRB should also consider ranking projects based on distance from oil and gas drilling sites, as it has been reported that there is wide use of PFAS in oil and gas drilling. Additional ranking criteria aiming at prioritizing projects in other vulnerable communities should also be considered. Note that these project ranking criteria should be provided on a sliding scale basis, with more priority ranking points provided to projects with more vulnerability.

VII. Improve Readiness to Proceed Procedures

Even if project ranking effectively ranks projects based on the above criteria, high ranking projects can still get bypassed by lower ranking projects if they are not ready to proceed. The following recommendation aims to ensure that all high ranking projects are eventually able to receive funding under the SRF program.

Recommendation 7A:

Provide Planning Loans to High Ranking Projects that are Not Ready to Proceed

Under the DWSRF, projects that have met the readiness to proceed requirements will be moved ahead of projects that are not on schedule on the PPL. Under the CWSRF, a maximum of 400 points are given to projects that are ready to proceed. For both programs, a project may be bypassed if it is not on schedule and not "ready to proceed." Bypassed projects will be monitored and encouraged to meet program requirements so that they may be reinstated to the fundable portion of the list.

We recommend project planning grants are available to projects that are not ready to proceed. In other words, high ranking projects, especially those for underserved communities, should not risk losing an opportunity to get funding due a lack of capacity to meet arduous ready-to-proceed criteria such as engineering, environmental impact, or financial reports. Offering short-term, low or zero interest planning loans is a strategy employed by SRF programs in several other states to help communities procure the expertise and other resources needed to meet these requirements. Any project at risk of being bypassed by a lower ranking project should be offered a planning loan, which would allow them to become ready to proceed in time for a subsequent funding cycle. The planning loan can then be rolled into the construction loan when it is finalized. By providing planning loans in this manner, the DEQ and OWRB can ensure that all high ranking projects have a good opportunity to receive funding.

VIII. Technical Assistance and Administration

Technical assistance programs under the SRF programs are crucial because they provide essential support to communities, particularly small and disadvantaged ones, in developing, financing, and implementing water infrastructure projects. These programs offer a range of services, including project planning, application preparation, financial advice, and compliance guidance with environmental regulations. This support is vital for ensuring that all communities, regardless of size or economic status, have access to safe drinking water and adequate wastewater treatment. These programs are therefore pivotal in enhancing public health, protecting the environment, and promoting equitable access to clean water services, thereby contributing to the overall goal of the SRFs to invest in America's water infrastructure.

The goal of the following recommendations is to improve the Technical Assistance programs under the DWSRF and CWSRF.

Recommendation 8A:

Provide a Link to Technical Assistance (TA) Workplan in the Intended Use Plans (IUPs)

While the IUPs contain some information about the use of set-asides under the DWSRF and CWSRF, more information is supposedly contained within the set-aside workplans. However, these workplans are difficult to find. We recommend providing information on where stakeholders can find workplans in the IUP.

Recommendation 8B:

Provide Technical Assistance for Workforce Development

As noted in **Recommendation 6(B)(iii)** above, there are many workforce challenges facing the water and sewer system providers. Many water utility workers are expected to retire, creating the need to attract and retain new workers. The Bureau of Labor Statistics estimated that 8.2% of existing water operators will need to be replaced annually between 2016 and 2026.[19] In order to help address this issue, using currently unutilized set-aside funds, the DEQ and OWRB should consider creating a technical assistance program to partner with technical assistance providers and professional organizations to develop new strategies and initiatives to avoid the potential crisis of a diminishing workforce. Among others, such set-aside funds could be used to support the following:

- **Community Benefit Agreements**—A Community Benefit Agreement (**CBA**) commits the developer to work with local CBOs and workforce development agencies to create opportunities for local workers, mitigate environmental and public health harm, and otherwise positively contribute to the local community.[20]

- **Community-Based Public-Private Partnerships**—A Community-Based Public-Private Partnership (**CBP3**) involves a partnership between the public and private sectors to deliver infrastructure while prioritizing community-based benefits, aimed at generating superior results in terms of speed, efficiency, cost-effectiveness, and equity.[21]

- **Establishing an Equitable Workforce Development Advisory Groups**—Community-based organizations (**CBOs**) and other nonprofits play a crucial role in advocating for stronger workforce development policies and programs and by creating an advisory group to serve as a framework for regular dialogue between water utilities and local CBOs and nonprofits concerned with workforce development can help build shared understanding about workforce development issues, challenges, goals, and opportunities, and lead to collaboration on workforce development initiatives in the sector.[22]

- **Facilitating Regional Collaboration**—States could use set-aside funds to support regional roundtables convening relevant drinking water utility staff, community stakeholders, and elected officials, together with local water infrastructure contractors and workforce development agencies to ascertain the readiness and capacity needs of area contractors.[23]

More information on use of set-asides for these activities can be found in the Environmental Policy and Innovation Center's Report, *How State Revolving Fund Policies Can Support Equitable Water Workforce Development*.

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Lifting Up What Works®

Headquarters
1438 Webster Street
Suite 303
Oakland, CA 94612
t (510) 663-2333

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Instagram: @policylink