



Federal FY 2020 CWSRF Intended Use Plan For State FY 2021

FINAL

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I. Introduction

In 1987, Congress amended the federal Clean Water Act (CWA) authorizing the Clean Water State Revolving Fund (CWSRF), a low interest loan program, to assist public entities with the financing of publicly owned treatment facilities (Section 212) and non-point source management activities (Section 319). The 1987 CWA Amendments authorized the US Environmental Protection Agency (EPA) to award capitalization grants to states to provide seed money for the low interest loan program. While the 1987 Amendments only authorized funding for the first several years of the loan program, Congress continues to provide funding as part of its annual appropriations.

This Intended Use Plan (IUP), required under the CWA, describes how South Carolina intends to use available SRF funds for State Fiscal Year (SFY) 2021 (July 1, 2020 through June 30, 2021) including federal funds allocated to South Carolina from the Further Consolidated Appropriations Act, 2020. South Carolina's allotment from the federal appropriations for federal fiscal year (FFY) 2020 is \$16,280,000. Eligibility for CWSRF loans and CWSRF program requirements, including any requirements of the applicable appropriations legislation are included in the IUP.

The South Carolina Department of Health and Environmental Control (DHEC) is the designated state agency to apply for and administer the capitalization grant for the CWSRF. The South Carolina Water Quality Revolving Fund Authority (Authority) is responsible for the financial functions of the CWSRF, including its financial policies, and executes loan agreements with project sponsors. The Rural Infrastructure Authority's Office of Local Government (RIA) conducts the staff functions of the Authority.

Once prepared, an IUP must be noticed for a period of at least 30 days to accept comments from the public. Comments on all facets of the DRAFT IUP are accepted. After considering comments received, the IUP is finalized and posted on DHEC's website at <http://www.scdhec.gov/srf>.

II. Goals

South Carolina has identified several short and long term goals designed to promote sustainable improvements to the state's infrastructure and help ensure maximum environmental and public health benefits.

A. Short Term Goals

1. Update the State Revolving Fund Operating Agreement between EPA and South Carolina.
2. Maintain a subcontract with a qualified vendor to provide technical assistance to CWSRF sponsors for the preparation of Fiscal Sustainability Plans.

B. Long Term Goals

1. Promote sustainable system capacity through consolidation of systems thereby taking advantage of the economies of scale to address technical, managerial and financial capacity problems.

2. Assist local communities as they strive to achieve and maintain compliance with federal and state water quality standards by funding projects that improve or protect water quality by reducing pollutant loading in order to attain water quality standards.
3. Maintain a working relationship with other infrastructure funding authorities within the state to coordinate water quality funding.
4. Work collaboratively to direct CWSRF funds to areas where additional DHEC and EPA resources are already invested (i.e., Priority Watersheds and 319 grants).
5. Support the use of green practices and investment in green infrastructure, water and energy efficient improvements and environmentally innovative projects.
6. Maintain the fiscal integrity of the CWSRF to ensure the perpetuity of the fund.

III. Transfer of Funds From/To the Clean Water State Revolving Fund

The SC SRF program reserves the ability to transfer funds between the CWSRF and Drinking Water (DW) SRF as provided for by federal law. Fund transfers from the CWSRF to the DWSRF or from the DWSRF to the CWSRF will be done to assist in meeting the funding demands in the CWSRF and DWSRF. The law allows the SRFs to transfer an amount equal to 33% of each annual Drinking Water capitalization grant. SC SRF would transfer non-federal funds made available by loan repayments. The EPA will receive written notification prior to any transfers occurring.

For SFY 21, the SC SRF has no plans to transfer funds between the CWSRF and DWSRF, but reserves the right to do so if needed to meet demand in either the Clean Water or Drinking Water program during SFY 21.

IV. Provisional Projects List

The Clean Water Provisional Projects List (PPL) (Appendix A) identifies projects that are considered to be eligible and ready to proceed in the SFY 2021. The list consists of new projects and projects that are in the process of meeting SRF program requirements.

All loan projects on this list must complete the process detailed in Section V.C to receive funding.

Final funding decisions for each project are contingent on a satisfactory review of the project sponsor's technical and managerial capacity, a completed environmental review of the proposed project, issuance of a DHEC SRF construction permit (or construction approval letter), and a successful final credit review by RIA for the Authority. The availability of a loan from the Authority will be based on the project sponsor's financial capacity and its ability to afford repayment on the requested amount of debt.

The Provisional Projects List includes projects that have been identified to receive principal forgiveness funds. These funds are only available if the FFY 2020 Capitalization Grant is awarded by EPA and accepted by DHEC. Project listing is not a commitment of funding.

V. Method for Selecting Projects and Distribution of Funds

A. Priority Ranking System

DHEC SRF uses an integrated priority system for ranking Section 212 treatment work projects as well as eligible nonpoint source projects. A copy of the ranking system used to score and rank projects can be found on the SRF Documents and Forms webpage at <http://www.scdhec.gov/srfforms>.

B. Comprehensive Priority List of CWSRF Projects

For a project to be considered for funding from the CWSRF, it must appear on the State's Comprehensive Priority List of CWSRF Projects. To be included in this list, an eligible project sponsor (municipalities, counties or special purpose districts) must complete a project questionnaire (PQ), DHEC-3561. The DHEC-3561 form can be found on the SRF Documents and Forms webpage, <http://www.scdhec.gov/srfforms>. A project sponsor may submit a completed PQ to the SRF section of DHEC's Bureau of Water at any time. Once the PQ is received, DHEC staff will evaluate the project based on the CWSRF Priority Ranking System and assign the project a numeric score. The project is then added to the Comprehensive Priority List of CWSRF Projects in rank order. Any projects with the same numerical score are ordered based on how the project addresses water quality priority issues in the following order: 1) first – score for "implement an approved TMDL" and 2) second – score for "impairment(s) addressed on current 303d list" and then by date the project questionnaire was received. DHEC maintains an updated Comprehensive Priority List on the SRF Documents and Forms webpage, <http://www.scdhec.gov/srfforms>.

If a project remains on the Comprehensive Priority List for three years and does not proceed, DHEC staff will contact the sponsor and request that a revised PQ be submitted within 30 days that updates the cost estimate along with any changes to the project description. A revised PQ is scored to determine priority rank and remains on the Comprehensive Priority List. If DHEC does not receive a revised PQ, the project is removed from the Comprehensive Priority List.

C. Selection of Projects and SRF Funding

The selection of projects for the Provisional Projects List (Appendix A) is based on project ranking and the sponsor's indicated readiness to proceed with a project during SFY 2021. Ready to proceed in SFY 2021 means that a project will be in compliance with the SRF schedule for submission of an acceptable preliminary engineering report and construction permit application as well as a complete SRF loan application to RIA.

The successful completion of a preliminary financial review should occur before a project sponsor proceeds with meeting the technical requirements for a loan. Based on the schedule established for a project, RIA will send the sponsor a loan application package. To proceed as an SFY 2021 SRF project, a project must receive a construction permit, or letter of approval to construct, and submit a complete loan application to RIA by July 31, 2021. For large projects, DHEC and RIA reserve the right to impose a limit on the amount of any given CWSRF loan, regardless of ranking, and to consider a sponsor's ability to obtain financing from other sources.

D. Bypass Procedure

When selecting projects for funding, DHEC may bypass projects on the Comprehensive Priority List as follows:

1. To fund a project where a viable system owner is willing to assume ownership of a non-viable or abandoned system;
2. To select Green Project Reserve eligible projects or portions of projects that equal at least \$1,628,000 (10% of the expected capitalization grant amount);
3. To address an imminent hazard to public health as determined by DHEC;
4. To address an imminent release of untreated wastewater directly to a surface water body as determined by DHEC, and;
5. To fund projects that will eliminate a point source discharge, which is violating effluent limits, by a connection to a regional system.
6. To fund projects that support consolidation or regionalization of systems to enhance the sustainability, regulatory compliance and/or quality of service of the systems involved.

E. Expeditious Use of Funds

In order to promote timely commitment and use of SRF funds, DHEC will set milestones for each project related to the completion of the PER and submission of plans and specifications to obtain a construction permit or letter of approval to construct. For the projects listed in Appendix A, the project sponsor must meet these milestones to ensure funds will not be committed to other projects. DHEC will take into account the complexity of the project and work with project sponsors in setting project milestones.

F. Sustainability Requirement

The CWSRF will not provide any type of assistance to a project sponsor that lacks the technical, managerial or financial capability to operate sustainably, unless the sponsor agrees to undertake feasible and appropriate changes in operation or if the use of the financial assistance from the CWSRF will promote sustainability and compliance over the long-term.

Sponsor sustainability is evaluated using DHEC's Utility Sustainability Assessment (UtSA) (DHEC form 0574). The UtSA is a written system assessment completed by the Sponsor and reviewed and scored by DHEC that includes operational issues, managerial issues

and limited financial information. Unless an acceptable score was received on a UtSA within the previous three years, a UtSA is requested of sponsors with projects on the Provisional Projects List. Additional financial assessment is performed by RIA as part of the preliminary financial review and loan application process.

G. Interest Rates and Funding Terms for Eligible Projects

Visit the RIA website, <http://www.ria.sc.gov/> to view current SRF loan rates and policies. Interest rates for SFY 2021 are expected to be published by RIA in early October 2020.

Up to 30-year financing is available for all borrowers not to exceed the useful life of the project components. For example, pipe and items constructed of concrete or steel qualify for a 30-year term, while mechanical and electrical components are limited to 20 years. Blended amortizations will be provided for loans with differing terms.

For any project requesting funds for both 20- and 30-year eligibilities, the engineer will provide in the PER an estimated cost breakout in sufficient detail for DHEC to determine items that qualify for 20- or 30-year financing based on useful life. This information will be used for the conditional loan commitment letter; however, the 20- and 30-year eligibilities used for loan closing must be based on contractor prices.

Loans for projects with both 20- and 30-year requested construction cost items will have the 20/30 year cost breakdowns for the loan agreement determined once the bidding process is complete. If the successful contractor's bid is in sufficient detail for DHEC to determine the useful life of the components, no further breakout will be needed for loan closing. However, when the successful contractor's bid is not in sufficient detail to make the 20/30 year determinations, such as in a lump sum bid, the successful contractor, after the tentative award notice but before loan closing, must provide a breakout of the bid in sufficient detail for DHEC to make the necessary determinations of 20- and 30-year eligibility. So as to not delay loan closing and, in most cases execution of the construction contract, the selected contractor needs to develop and submit the detailed breakout to DHEC at the earliest possible time.

H. Loan Application

Sponsors of Provisional Projects who successfully complete RIA's preliminary financial review may apply to the Authority through RIA for SRF loan financing by submitting a loan application approximately 30 days prior to submitting plans and specifications as required for a DHEC/SRF construction permit or letter of approval. Authorization to construct the project, either through an SRF-issued Permit to Construct or Letter of Approval, both of which require a completed environmental review, is required before an SRF loan application is considered complete.

Loan applications are accepted from October 1 through July 31.

VI. Eligibilities

A. Eligible Sponsors

Municipalities, counties, special purpose districts and other public entities are eligible SRF project sponsors.

B. Water Quality Management (WQM) Plans

Pursuant to Section 208 of the Clean Water Act, Section 212 CWSRF projects must not conflict with the applicable Water Quality Management (WQM) plan. The sponsor of a CWSRF project must be a designated management agency, which is any municipality, county or special purpose district that accepts the responsibilities associated with implementing an applicable WQM plan. The management agency designation process may be pursued concurrently with the CWSRF project if necessary. More information about management agency responsibilities and the designation process can be found in the 208 Water Quality Management Plan for the Non-designated Area of South Carolina, <https://www.scdhec.gov/sites/default/files/Library/CR-010129.pdf>.

C. Land

Land needed in support of construction and for collection, transport, treatment and stormwater projects, is eligible for CWSRF loan participation. The purchase price of all land, rights-of-ways, and easements, not to exceed the appraised value, may be included in the loan when: 1) the land is obtained less than one year prior to the date of a complete loan application, and 2) an appraisal, prepared by a qualified appraiser, is submitted on each parcel, right-of-way and easement with the loan application. For land with structures or other improvements, only the appraised value of the land is CWSRF loan eligible, not the appraised value of the land with the structures or improvements. In the CWSRF program, land may be acquired under proper eminent domain procedures when necessary.

D. Planning and Design Costs

A CWSRF loan may include the costs of project planning and services incurred prior to construction (e.g., costs associated with preparing the PER, plans and specifications, advertising, pre-bid conference, bidding procedures, pre-construction conference, loan application, administration, or creating a watershed-based plan). Only those costs for which there is clear documentation of expenses incurred solely for the proposed project and are dated no earlier than 36 months prior to the date of a complete loan application to RIA are eligible for funding under the CWSRF program.

E. Legal and Appraisal Fees

In general, legal and appraisal costs associated with obtaining land (rights-of-way and easements) and attorney fees associated with the SRF loan application and loan closing process are eligible. Legal and appraisal costs associated with obtaining land are not

eligible for funding under the CWSRF program if incurred earlier than one year prior to the date of a complete loan application to RIA.

F. Construction Costs

Construction costs include the costs associated with the construction of the project by a contractor. The CWSRF may provide assistance for the costs associated with engineering services during construction, such as inspections, change orders, overview of contractors, shop drawings, record drawings, concrete or soil testing, Davis-Bacon and American Iron and Steel administration, and draw requests.

Equipment that is directly purchased by the sponsor for the project, such as pumps, generators, etc., is eligible.

Materials such as pipe, valves, brick, mortar, etc., that are directly purchased by the sponsor are eligible. The materials may be installed either by a contractor or by the sponsor using its own employees and equipment. Eligibility is limited to the costs of materials. The costs of supplies such as fuel, oil and tools used by the sponsor to install the materials are not eligible for funding under the Clean Water SRF program. Additionally, force account labor is not eligible.

Service connections are eligible for funding from the SRF but only that portion of a service connection that will be owned and maintained by the project sponsor and installed as part of an SRF funded sewer line project.

G. Contingency

- The SRF program allows a contingency on eligible construction cost as follows: ten percent (10%) of the construction line item for the first \$10 million dollars of construction cost and five percent (5%) for the construction amount that exceeds \$10 million.
- The SRF program allows a contingency of two and a half percent (2.5%) for materials that are directly purchased by the sponsor.
- There is no contingency allowed on equipment.

H. Phasing of a CWSRF Project

To make construction and/or funding more manageable, a project may be divided into separately funded phases or segments, at the option of the sponsor. However, to be CWSRF-eligible, any such phase or segment must be of reasonable scope and, when constructed, must have the capability of being placed into immediate full operation, without its full operation being dependent on a subsequent project phase or segment or another outside operation yet to be completed. After a given project phase is funded, subsequent phases must stand separately in competing with other projects for priority list ranking in later fiscal years.

I. Projects Not Eligible for Funding

The CWSRF will not provide funding assistance for the following projects and activities:

1. Projects for systems that lack adequate technical, managerial and financial capability (i.e. non-viable systems), unless the project is needed to address a high-priority environmental or human health concern;
2. Projects exclusively correcting operation and maintenance deficiencies;
3. Projects for systems in NPDES noncompliance, unless funding will help a system achieve compliance;
4. Projects for systems when consolidation or regionalization is the most feasible alternative for a system to maintain sustainability, unless the project addresses or supports consolidation or regionalization.

VII. Funds Available

A. Amount of Capitalization Grant

South Carolina's capitalization grant allotment from the FFY 2020 federal appropriation is \$16,280,000.

B. State Match Requirement

One condition of receiving the annual capitalization grant allotment is the State must deposit into the CWSRF an amount equal to at least 20 percent of the total amount of the expected capitalization grant. The RIA will deposit to the CWSRF fund the required amount of \$3,256,000 to comply with the state match requirement.

C. Administration of the CWSRF Program

The CWA allows each state to use an amount equal to four percent (4%) of its capitalization grant to fund the administration of the CWSRF program. DHEC plans to retain the authority to use 4% of its expected capitalization grant amount (\$651,200) for program management, including funding staff, paying operational expenses and providing technical assistance to potential loan applicants.

DHEC plans to use a portion of its administration funding to maintain a contract with a technical assistance provider to assist CWSRF loan recipients in meeting the Fiscal Sustainability Plan requirement as set forth in the CWA amendments of 2014.

D. Estimated Funds Available - State Fiscal Year (SFY) 2021

Estimated Amount of Funds to be available as of 6/30/20	\$106,662,000
FFY 2020 federal capitalization grant	\$16,280,000
State match for FFY 2020 capitalization grant	\$3,256,000
Estimated SFY 2021 repayments (7/1/20 to 6/30/21)	\$46,000,000
Estimated SFY 2021 investment earnings (7/1/20 to 6/30/21)	\$6,600,000
Estimated amount of funds to be transferred to/from the DWSRF	\$0
CWSRF administrative set-aside	(\$651,200)
Estimated Total Funds Available for SFY 2021 Loans	\$178,146,800

The estimated total funds for SFY 2021 loans may change from the figure quoted above due to the ongoing administration of projects, including SFY 2020 projects where bids have not been opened. It should be noted that the estimated total of CWSRF loan funds identified for potential and continuing SFY 2021 CW projects shown in Appendix A is less than the estimated funds available for SFY 2021 shown in the table above. Additional projects may be identified during SFY 2021 and will be reported in the 2021 CWSRF Annual Report.

E. Anticipated Cash Draw Ratio

Since the advent of requiring additional subsidy (accomplished in SC through principal forgiveness) in FFY 2010 and its attachment to specific capitalization grants, all state match is deposited in the CW fund and fully expended before drawing federal money at one hundred percent (100%).

F. Fee Income

A loan closing fee is charged to loan recipients to support RIA's operating costs. This fee is not eligible for inclusion in the loan.

The CWSRF SFY 2021 closing fee is expected to be published in early October 2020 on the RIA website, <http://www.ria.sc.gov/>.

VIII. Assurances and Specific Proposals

DHEC has provided assurances and specific proposals as part of the Operating Agreement between South Carolina and EPA. The Operating Agreement provides a framework of procedures for operation and administration of the CWSRF including:

1. Environmental Reviews: The State will conduct environmental reviews according to the procedures identified in its Operating Agreement.
2. Binding Commitments: The State will enter into binding commitments for 120% of the amount of each payment received under the capitalization grant within one year of receipt of payment.
3. Expeditious and Timely Expenditures: The State will expend all funds in the CWSRF in an expeditious and timely manner.

IX. Additional Information / Requirements

A. Federal Requirements

Sponsors will be notified of all applicable federal requirements once their project is identified as a candidate for funding. Several federal requirements are required of all SRF loan recipients as follows:

- Environmental review of the project
- Compliance with Civil Rights Laws

- Davis-Bacon prevailing wage rates
- American Iron and Steel
- Fiscal sustainability plans for project components
- Cost and effectiveness analysis of the project

Additional federal requirements are tied to the capitalization grant, and will be required of any project receiving a loan designated as being made with federal capitalization funds. These requirements include but are not limited to:

- Disadvantaged Business Enterprise compliance (DBE)
- Equal Employment Opportunity
- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards: Title 2 CFR, Parts 200 and 1500 ("Uniform Guidance" – governs single audit requirements)
- Architectural and Engineering Procurement
- Signage

The projects that meet these federal requirements will be identified in the CWSRF Annual Report.

B. Additional Subsidies

The FFY 2020 appropriations require that at least 10% of the capitalization grant shall be used to provide additional subsidy to CWSRF projects. Section 603(i) of the CWA, states the conditions under which additional subsidy may be offered to a project.

EPA expects the SRF program to ensure that systems and project sponsors who receive additional subsidy have the technical, managerial and financial capacity to maintain compliance with federal and state regulations. The Utility Sustainability Assessment mentioned in Section V.F above is one tool used by the SRF to evaluate the technical, managerial and financial capacity of a potential SRF additional subsidy recipient. Systems that do not have adequate technical, managerial and financial capacity may receive additional subsidy funds if the system/sponsor agrees to undertake needed changes in operation that will promote sustainability. The sponsor may not be eligible for additional subsidies on future projects until the agreed upon operational changes have been fully implemented. Also, systems who ask to be considered for principal forgiveness funds should not be delinquent on submission of annual financial audits to the State Treasurer's Office as required by SC state law.

The SRF program plans to utilize additional subsidy funds, provided as principal forgiveness (PF), for ready-to-proceed projects, to encourage sustainability through project planning, design and construction. This includes projects:

- That enhance the sustainability of small systems (population less than 10,000) by fixing existing infrastructure;
- Where a sustainable system owner is willing to assume ownership of an unsustainable or abandoned system;

- To provide a long-term solution to ongoing surface water or groundwater contamination problems from the discharge of treated or untreated wastewater or sludge.

Eligible sponsors with eligible projects that may receive PF assistance are as follows:

- Small systems (population less than 10,000) with a Median Household Income (MHI) less than the State MHI that cannot qualify for a CWSRF loan, or;
- A sustainable system owner willing to assume ownership of an unsustainable or abandoned system.

To make maximum benefit of PF funds for SFY 2021, no one sponsor may receive more than \$1,000,000 of this subsidy unless PF funds remain unassigned or are not committed to an identified project as expected.

Appendix A indicates the amount of PF that has been assigned to projects for SFY 2021 on a preliminary basis. The SRF Program reserves the right to adjust PF amounts. PF funds are only available if EPA awards the FFY 2020 CWSRF Capitalization Grant and it is accepted by DHEC. Project listing is not a commitment of PF funding.

C. Green Project Reserve (GPR)

The Further Consolidated Appropriations Act, 2020, requires to the extent there are eligible projects, not less than 10% of the State's expected FFY 2020 CWSRF allotment be used for green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities. South Carolina's "Green Project Reserve" (GPR) amount is \$1,628,000. Any project or project portion wanting to be considered for the GPR must submit documentation outlining the benefits of the *green* components of the project. EPA's GPR guidance is posted on the SRF Guidance webpage <http://www.scdhec.gov/srfguidance>.

At the time this IUP was drafted, no projects had been identified to satisfy the GPR. To reach the minimum of 10%, projects currently on the Provisional Project List will be reviewed to see if any project, or part of a project, qualifies for the GPR.

DHEC reserves the right to give funding priority to all or a portion of GPR qualifying projects through the bypass procedures.

D. Environmental Outcomes and Measures

DHEC will update EPA's Clean Water Benefits Reporting (CBR) database and enter data into the CWSRF National Information Management System (NIMS). CBR collects project level information and anticipated environmental benefits associated with CWSRF projects, while NIMS produces annual reports that provide a record of progress and accountability for the program. EPA uses the information provided to oversee the CWSRF State programs and develop reports to the US Congress concerning activities funded by the CWSRF program. For more information, go to EPA's Clean Water SRF Performance webpage, http://water.epa.gov/grants_funding/cwsrf/cwnims_index.cfm.

E. Public Participation

Notice of this draft IUP is e-mailed to each project sponsor on the Comprehensive Priority List of CWSRF Projects and other interested parties.

During the public notice period (30-day minimum), the Draft IUP notice and DRAFT FFY 2020 CWSRF IUP are posted on the DHEC website, <http://www.scdhec.gov/srf>. Interested parties are invited to review the documents and submit written comments by the deadline established in the Draft IUP notice.

The Draft FFY 2020 CWIUP was posted to the DHEC website on July 31, 2020. Notice of the Draft IUP was emailed to SRF contacts, Rural Infrastructure Authority contacts, DHEC watershed stakeholders and included in communications to members of SC Rural Water Association and the Municipal Association of South Carolina. Comments were accepted until 5:00 PM on August 31, 2020.

One comment was received during the public comment period. The commenter requested that a project listed in the Continuing Projects Section of the Provisional Projects List be removed from consideration as a CWSRF project due to service area concerns. Because the subject project already is included in the FFY 2019 Final CWIUP and only is included in the FFY 2020 CWIUP for accounting purposes, the project will remain in the Continuing Projects Section of the Provisional Projects List. The service area concerns raised by the commenter will need to be resolved for the project to move forward as a candidate for CWSRF funding.