



WATER INFRASTRUCTURE FUNDING OPPORTUNITIES IN MISSISSIPPI

Harvard Law School Mississippi Delta Project

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Although we have made an effort to provide as much information as possible, every situation is unique and requires a tailored approach. This guide is **not legal advice** and you should not rely on it alone to make decisions. Whenever possible, you should consult with an attorney or other appropriate professional advisor.

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Executive Summary

This policy paper discusses funding opportunities for water infrastructure relevant for communities in Mississippi. It discusses two grant funding programs: grants available through the American Rescue Plan Act and the Community Development Block Grant program. It also discusses two federal programs, the Infrastructure Investment and Jobs Act and the Justice40 initiative, which interact with existing programs to provide more funding for certain project types and certain qualifying communities. This Executive Summary provides a high-level overview of each program examined in this policy paper. This policy paper does not provide a comprehensive overview of all funding opportunities available to Mississippi communities; notable opportunities not discussed are grants from the Delta Regional Authority and private funding sources. For the programs discussed in this policy paper, the following table provides a non-exhaustive guide to the most relevant programs by community size and project sought to be funded.

		Project Type		
		Drinking Water	Wastewater	Emergency
Applicant	Small Community (Pop. <50,000)	ARPA Local Fiscal Recovery Funds Community Facilities Direct Loan & Grant Program Drinking Water Infrastructure Resilience and Sustainability Grant Drinking Water State Revolving Fund (DWSRF)	ARPA Local Fiscal Recovery Funds Clean Water State Revolving Fund Community Facilities Direct Loan & Grant Program	
	Large Community (Pop. >50,000)	CDBG Entitlement Program CDBG State Program ARPA Local Fiscal Recovery Funds & State Match (MCWI)	CDBG Entitlement Program CDBG State Program ARPA Local Fiscal Recovery Funds & State Match (MCWI) Clean Water State Revolving Fund	
	Individual	ARPA Rural ¹		
	Other (Project Type-focused)			CDBG Disaster Recovery Funds ² CDBG Mitigation Funds ³ CDBG-CV Program ⁴

¹ ARPA Rural Water Associations Infrastructure Grant Program funds are limited to eligible private, non-profit water associations and water utilities.

² Appropriations further limit use of funds to the “most impacted and distressed” areas.

³ Funds specifically for mitigation activities for qualifying disasters in 2015, 2016, and 2017.

⁴ Grants to states, insular areas, and local governments to prevent, prepare for, and respond to the spread of COVID-19.

I. American Rescue Plan Act

The American Rescue Plan Act (ARPA) has invested a discrete set of funds to be used by local governments as well as rural areas and private entities.⁵ The type of applicant and population size will determine which ARPA funding stream may be available, though most funding must be allocated by 2024 and spent by 2026.⁶ ARPA-eligible water projects broadly include projects for lead remediation, residential wells, dam and reservoir projects, and system improvements to meet national drinking water and wastewater standards.⁷ As of November 2022, Mississippi's various state agencies had allocated 90.8% of its total ARPA funding related to water infrastructure.⁸

Local governments are eligible for ARPA's Local Fiscal Recovery Funds through the U.S. Treasury Department.⁹ For local governments serving populations greater than 50,000, certain projects specific to drinking water, wastewater, and stormwater may be additionally eligible for grant matching from the Mississippi Department of Environmental Quality (MDEQ).¹⁰ The first two rounds of funding for local governments with populations above 50,000 closed as of January 1, 2023, but MDEQ may schedule additional rounds for any remaining funding.¹¹ Smaller local governments (those serving less than 50,000) will receive funding through the Department of Finance & Administration (DFA) and are not eligible for state-level matching grants.¹²

⁵ *Coronavirus State and Local Fiscal Recovery Funds*, U.S. DEP'T OF THE TREASURY, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds> (last visited May 10, 2023).

⁶ See, e.g., *American Rescue Plan Act (ARPA): Rural Water Associations Infrastructure Grant Program*, MISS. STATE DEP'T OF HEALTH, <https://msdh.ms.gov/page/30,0,76,1000.html> (last visited May 10, 2023).

⁷ 31 C.F.R. § 35.6 (2022); see also *Coronavirus State and Local Fiscal Recovery Funds*, U.S. DEP'T OF THE TREASURY, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds> (last visited May 10, 2023).

⁸ See *ARPA State Fiscal Recovery Fund Allocations Dashboard*, NAT'L CONF. STATE LEGISLATURES, <https://app.powerbi.com/view?r=eyJrIjojMmQ2NDRIYtN2NkZC00OTE2LThjYzQtYjAzNTE2ZDRjZWFiIiwidCI6IjM4MmZiOGIwLTRkYzMtNDEwNy04MGJkLTM1OTViMjQzMmZhZSIsImMiOjZ9> (last visited May 10, 2023) (click on "Total Estimated Allocations" and scroll to "Mississippi").

⁹ Carolyn Berndt, et al., *Using American Rescue Plan Act Funds for Water, Wastewater, and Stormwater Infrastructure Projects*, NAT'L LEAGUE OF CITIES (Jun. 1, 2021) <https://www.nlc.org/article/2021/06/01/using-american-rescue-plan-act-funds-for-water-wastewater-and-stormwater-infrastructure-projects/>.

¹⁰ *Mississippi Municipality & County Water Infrastructure Grant Program*, MISS. DEP'T OF ENV'T QUALITY, <https://mswaterinfrastructure.com/> (last visited May 10, 2023).

¹¹ *Id.*

¹² *American Rescue Plan Local Fiscal Recovery Funds*, MISS. DEP'T FIN. & ADMIN., <https://www.dfa.ms.gov/arpa> (last visited May 10, 2023).

Rural water districts and private, non-profit water associations and water utilities are eligible to receive ARPA-funded grants through the ARPA Rural program run by the Mississippi State Department of Health.¹³ Funding must be used for drinking water infrastructure projects.¹⁴

[Learn more about ARPA Funds in Mississippi](#)

II. Community Development Block Grants

The **Community Development Block Grant (CDBG)** Program encompasses an array of grant funding opportunities administered annually by the U.S. Department of Housing and Urban Development.¹⁵ CDBG's two largest programs, the State Program and Entitlement Program, are most relevant for funding water infrastructure improvements in Mississippi—these types of projects together with other public improvements constitute around one-third of total annual CDBG expenditures.¹⁶

Mississippi makes its CDBG State Program funds available exclusively to cities, counties, and other local governments that are not eligible for funds through the Entitlement Program.¹⁷ In 2020, \$14 million was used for water and sewer improvements—nearly 70% of all Mississippi CDBG State funding that year.¹⁸

The CDBG Entitlement Program awards funding specifically to cities and urban counties based on population, poverty, and housing information.¹⁹ Recipient government entities further disburse funding to local sub-grantees, including nonprofits, developers, and contractors, who apply directly to their city or county government for grant funding.²⁰

[Learn more about CDBG Funds in Mississippi](#)

¹³ *American Rescue Plan Act (ARPA): Rural Water Associations Infrastructure Grant Program*, MISS. STATE DEP'T OF HEALTH, <https://msdh.ms.gov/page/30,0,76,1000.html> (last visited May 10, 2023).

¹⁴ 2022 Miss. H.B. 1421 § 1, <http://billstatus.ls.state.ms.us/documents/2022/pdf/HB/1400-1499/HB1421SG.pdf>.

¹⁵ *Community Development Block Grant Program*, U.S. DEP'T OF HOUS. & URB. DEV. (Dec. 22, 2022), https://www.hud.gov/program_offices/comm_planning/cdbg.

¹⁶ JONATHAN L. RAMSEUR, CONG. RSCH. SERV., R46471, *FEDERALLY SUPPORTED PROJECTS AND PROGRAMS FOR WASTEWATER, DRINKING WATER, AND WATER SUPPLY INFRASTRUCTURE* 45 (2022), <https://crsreports.congress.gov/product/pdf/R/R46471>.

¹⁷ MISS. DEVELOPMENT AUTH., *COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM APPLICATION MANUAL* 48 (2022), <https://mississippi.org/wp-content/uploads/2022-CDBG-Application-Manual.pdf>.

¹⁸ U.S. DEP'T OF HOUS. AND URB. DEV., *INTEGRATED DISBURSEMENT AND INFORMATION SYSTEM EXPENDITURE REPORT; USE OF CDBG FUNDS BY MISSISSIPPI* (2022), https://files.hudexchange.info/reports/published/CDBG_Expend_Grant_AAAA-MS_MS_2020.pdf.

¹⁹ JOSEPH V. JAROSCAK, CONG. RSCH. SERV., R46733, *COMMUNITY DEVELOPMENT BLOCK GRANTS: FUNDING AND ALLOCATION PROCESSES* 8 (2021).

²⁰ See HUD Exchange, *CDBG Formula and Appropriation Process*, YOUTUBE, at 1:53 (Jan. 6, 2016), https://www.youtube.com/watch?v=CW3GwKSOuTM&feature=youtu.be&ab_channel=HUDEXchange (discussing subrecipients of local governments).

III. Infrastructure Investment and Jobs Act (IIJA)

Mississippi is set to receive about \$75 million in water infrastructure funding from the Infrastructure Investment and Jobs Act in 2022. This funding will be distributed through the state's water revolving loan funds (SRF),²¹ with three parts focused on drinking water and administered through the Drinking Water State Revolving Loan Fund (DWSRF) for general upgrades (~\$19M),²² lead service line replacement (~\$31M),²³ and addressing emerging contaminants such as PFAS (~\$8M).²⁴ The remaining two parts are focused on wastewater and administered through the Water Pollution Control Revolving Loan Fund (WPCRLF) for community-wide projects (~\$16M) and addressing discharges of emerging contaminants (~\$1M).²⁵

The IIJA provides additional funding opportunities beyond SRFs, administered by the Environmental Protection Agency (EPA) for drinking water, which states, local governments, nonprofits, and institutions can apply for each fiscal year. These include, (i) training and technical assistance for small systems;²⁶ (ii) funding for water system improvements in small and disadvantaged communities;²⁷ funding for resilience to natural disaster threats in small (<10,000 people) and disadvantaged communities;²⁸ and addressing natural or cybersecurity threats to drinking water sources for larger communities;²⁹ (iii) assistance for low-income homeowners seeking to connect to local public water systems;³⁰ (iv) a competitive grant process for communities to replace lead service lines where public water suppliers, nonprofit organizations qualified in lead reduction techniques, and government agencies can apply for funding;³¹ (v) grants for drinking water systems serving fewer than 10,000 people can apply for to improve their ability to detect potential water leaks, breaks, and other metering-related losses of potable

²¹ *Bipartisan Infrastructure Law: Environmental Protection Agency 2022 State Revolving Fund (SRF) Grants to States, Tribes, and Territories by Program*, ENV'T PROT. AGENCY, <https://www.epa.gov/system/files/documents/2021-12/fy-2022-bil-srfs-allotment-summary-508.pdf>.

²² *State Drinking Water Revolving Loan Fund*, MISS. DEP'T OF HEALTH, <https://msdh.ms.gov/page/44,0,127.html> (last visited May 10, 2023).

²³ *DRINKING WATER SYSTEMS IMPROVEMENTS REVOLVING FUND FFY-2023 INTENDED USE PLAN*, MISS. DEP'T OF HEALTH xxvii (2023), <https://msdh.ms.gov/page/resources/19617.pdf>.

²⁴ See ENV'T PROT. AGENCY, *BIPARTISAN INFRASTRUCTURE LAW: STATE REVOLVING FUNDS IMPLEMENTATION MEMORANDUM MARCH 2022 1–2* (Mar. 8, 2022), <https://www.epa.gov/system/files/documents/2022-03/bil-srf-memo-fact-sheet-final.pdf>.

²⁵ *Water Pollution Control (Clean Water) Revolving Loan Fund (WPCRLF) Program*, MISS. DEP'T OF ENV'T QUALITY, <https://www.mdeq.ms.gov/about-mdeq/grants-loans-and-trust-funds-available-through-mdeq/water-pollution-control-clean-water-revolving-loan-fund-wpcrlf-program/> (last visited May 10, 2023).

²⁶ 42 U.S.C. § 300j-1 (2022).

²⁷ *WIIN Grant: Small, Underserved, and Disadvantaged Communities Grant Program*, ENV'T PROT. AGENCY, <https://www.epa.gov/dwcapacity/wiin-grant-small-underserved-and-disadvantaged-communities-grant-program-0> (last visited May 10, 2023).

²⁸ 42 U.S.C. § 300j-19a (2022).

²⁹ 42 U.S.C. 300j-19g (2022).

³⁰ 42 U.S.C. § 300j-19a(m) (2022).

³¹ 42 U.S.C. § 300j-19b (2022).

water;³² (vi) a grant program focused on providing water assistance to rural and low income communities.³³

Additional funding opportunities for improving wastewater infrastructure include automatic state funding for minimizing combined sewer overflows and stormwater runoff,³⁴ funding for increasing water treatment systems' resilience to natural hazards and cybersecurity threats,³⁵ a grant program for individual homeowners with septic tank assistance,³⁶ and funding to connect homeowners' systems to publicly owned treatment centers that municipalities and nonprofits can apply for.³⁷

[Learn more about the Bipartisan Infrastructure Law programs operating in Mississippi](#)

IV. Justice40 Initiative

The **Justice40 Initiative** (Justice40) mandates at least 40% of funds from 454 designated existing federal programs to be directed towards disadvantaged communities. Communities qualify if they are identified as “disadvantaged” by the White House Council on Environmental Quality’s Climate and Economic Justice Screening Tool.³⁸ At least part of 17 counties in the Mississippi Delta region qualify for the initiative. Qualifying communities will have more competitive applications when they apply for designated federal programs participating in the initiative.

Several Justice40 programs provide funding streams for the provision of clean drinking water and wastewater treatment in the Delta region. Apart from the Clean Water and Drinking Water State Revolving Funds operated by the EPA, the U.S. Department of Agriculture operates the Water & Waste Disposal Loan and Grant Program, which offer direct loan assistance to local jurisdictions. Both the USDA and EPA programs participate in the Justice40 initiative, so qualifying communities who apply for funding through these programs will be more likely than non-qualified communities to earn the federal assistance.

[Learn more about Justice40 Initiative programs operating in Mississippi](#)

³² 42 U.S.C. §300j-19f (2022).

³³ Infrastructure Investment and Jobs Act § 50109, 135 Stat. 1148 (2021).

³⁴ *Sewer Overflow and Stormwater Reuse Municipal Grants Program*, ENV’T PROT. AGENCY, <https://www.epa.gov/cwsrf/sewer-overflow-and-stormwater-reuse-municipal-grants-program> (last visited May 10, 2023).

³⁵ 33 U.S.C. § 1302a (2022).

³⁶ 33 U.S.C. § 1302d (2022).

³⁷ 33 U.S.C. § 1302a (2022).

³⁸ *Climate and Economic Justice Screening Tool*, OFF. OF THE PRESIDENT COUNCIL ON ENV’T QUALITY, <https://screeningtool.geoplatform.gov/en/#4.87/29.59/-97.57> (last visited May 10, 2023).

American Rescue Plan Act

I. Introduction

On March 11, 2021, President Biden signed the American Rescue Plan Act (“ARPA”), which, among other investments, allocated \$350 billion in Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) to state, county, municipality, and non-entitlement unit (“NEU”) governments.³⁹ Funds are allocated by the Department of the Treasury (“Treasury”); states and local governments must request their funds through the online Treasury Submission Portal.⁴⁰

A. Using ARPA SLFRF for Water Infrastructure Projects

According to Treasury regulations (31 C.F.R. § 35), SLFRF may be used for eligible water and sewer infrastructure projects.⁴¹ Water infrastructure projects are eligible for SLFRF if they (1) meet the eligibility standards of the Environmental Protection Agency’s (“EPA’s”) Clean Water State Revolving Fund; (2) meet the eligibility standards of the EPA’s Drinking Water State Revolving Fund; OR (3) meet other potential eligibility standards, including certain stormwater infrastructure, residential well, lead remediation, and dams and reservoir projects.⁴² Recipients must allocate SLFRF to projects by December 31, 2024, and the funds must be expended by December 31, 2026.⁴³

B. ARPA Allocations in Mississippi

The State of Mississippi received \$1.8 billion in SLFRF, and cities and counties in Mississippi received \$900 million.⁴⁴ NEUs received \$268 million.⁴⁵

As of May 2023, the State of Mississippi had allocated \$1.64 billion, or 90.8 percent, of its total SLFRF allocation.⁴⁶ Of that \$1.64 billion, almost \$800 million was allocated for water infrastructure programs, including \$400 million to the Mississippi Department of Environmental

³⁹ *Coronavirus State and Local Fiscal Recovery Funds*, U.S. DEP’T OF THE TREASURY <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds> (last visited May 10, 2023).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² 31 C.F.R. § 35.6(e) (2022).

⁴³ 31 C.F.R. § 35.5 (2022).

⁴⁴ Geoff Pender et al., *Lawmakers Near Finish Line on Spending Unprecedented State and Federal Funds*, MISS. TODAY (Apr. 4, 2022), <https://mississippitoday.org/2022/04/04/mississippi-budget-work-arpa-spending/>; see *Allocation for States*, U.S. DEP’T OF THE TREASURY, <https://home.treasury.gov/system/files/136/fiscalrecoveryfunds-statefunding1-508A.pdf> (last visited May 10, 2023).

⁴⁵ See *Status of Payments to States for Distribution to Non-Entitlement Units of Local Governments (NEUs)*, U.S. DEP’T OF THE TREASURY, <https://home.treasury.gov/system/files/136/Status-State-NEU-Distribution.pdf> (last visited May 10, 2023).

⁴⁶ See *ARPA State Fiscal Recovery Fund Allocations Dashboard*, NAT’L CONF. STATE LEGISLATURES <https://app.powerbi.com/view?r=eyJrIjoiMmQ2NDRiNDYtN2NkZC00OTE2LThjYzQtYjAzNTE2ZDRjZWFiIiwidCI6IjM4MmZiOGIwLTRkYzMtNDEwNy04MGJkLTM1OTViMjQzMmZhZSIsImMiOiZ9> (last visited May 10, 2023) (click on “Total Estimated Allocations” and scroll to “Mississippi”).

Quality’s Municipal and County Water Infrastructure grant program and \$300 million to the Mississippi Department of Health’s APRPA Rural Water Associations Infrastructure Grant Program (See Table 1), with a small portion of program funds reserved to cover administrative costs.⁴⁷

	MDEQ MCWI	MSDH ARPA Rural	MSFA NEUs
Allocation from State of Mississippi	\$400 million	\$300 million	\$268 million
Eligible Entities	County/municipal governments with greater than 50,000 population, and public utilities	Private, non-profit water associations and utilities	County/municipal governments with less than 50,000 population
Matching Local Expenditure Required?	Yes, applicants must spend LFRF on water infrastructure projects to receive matching MCWI	No matching required	No matching required

Table 1: ARPA Allocations to the State of Mississippi

II. Application Process and Funding Streams

A. Local Governments > 50K Population

1. Eligibility

Local government jurisdictions with populations greater than 50,000 are eligible for ARPA Local Fiscal Recovery Funds (“LFRF”), which are distributed by the Treasury directly to local

⁴⁷ *Id.* (click on “State Allocations,” then check “Water Infrastructure” under “State Fiscal Recovery Fund Categories” and “Mississippi” under “States”).

governments.⁴⁸ Local governments in Mississippi have collectively been allocated \$900 million in LFRF.⁴⁹ Local governments may use LFRF on ARPA-eligible water infrastructure projects.

2. MCWI Matching

County governments, municipal governments, and public utilities in Mississippi that use LFRF for drinking, waste, and/or storm water infrastructure projects are eligible for grant matching through the Mississippi Department of Environmental Quality's ("MDEQ") Municipality and County Water Infrastructure ("MCWI") grant program.⁵⁰ For fiscal year 2022, the State of Mississippi allocated \$400 million in ARPA State Fiscal Recovery Funds ("SFRF") to fund the MCWI program.⁵¹

For local governments that receive more than \$1 million in LFRF, MCWI will match LFRF expenditures on water infrastructure projects on a 1-to-1 basis.⁵² For local governments that receive less than \$1 million in LFRF, MCWI will match expenditures on water infrastructure projects on a 2-to-1 basis.⁵³ The MCWI matching grants will be capped at \$50 million per project.⁵⁴

3. Application Process

Mississippi Senate Bill 2822 directed a minimum of two rounds of application for MCWI grants for LFRF matching.⁵⁵ The first two rounds have closed as of spring 2023, though more rounds may be scheduled by MDEQ if there are still funds remaining.⁵⁶ For more information about the

⁴⁸ Carolyn Berndt, et al., *Using American Rescue Plan Act Funds for Water, Wastewater, and Stormwater Infrastructure Projects*, NAT'L LEAGUE OF CITIES (Jun. 1, 2021) <https://www.nlc.org/article/2021/06/01/using-american-rescue-plan-act-funds-for-water-wastewater-and-stormwater-infrastructure-projects/>.

⁴⁹ Geoff Pender, et al., *Lawmakers Near Finish Line on Spending Unprecedented State and Federal Funds*, MISS. TODAY (Apr. 4, 2022) <https://mississippitoday.org/2022/04/04/mississippi-budget-work-arpa-spending/>.

⁵⁰ *Mississippi Municipality & County Water Infrastructure Grant Program*, MISS. DEP'T ENV'T QUALITY, <https://mswaterinfrastructure.com/> (last visited May 10, 2023).

⁵¹ *ARPA State Fiscal Recovery Fund Allocations Dashboard*, NAT'L CONF. OF STATE LEGISLATURES <https://app.powerbi.com/view?r=eyJrIjoiMmQ2NDRIYtN2NkZC00OTE2LThjYzQtYjAzNTE2ZDRjZWFiIiwidCI6IjM4MmZiOGIwLTRkYzMtNDEwNy04MGJkLTMTOTViMjQzMmZhZSIsImMiOiJ9> (last visited May 10, 2023) (click on "State Allocations," then check "Water Infrastructure" under "State Fiscal Recovery Fund Categories" and "Mississippi" under "States").

⁵² MISS. DEP'T ENV'T QUALITY, MCWI FREQUENTLY ASKED QUESTIONS 2 (2023), <https://mswaterinfrastructure.com/wp-content/uploads/2023/04/FAQ-Update-2022-3-30.pdf>.

⁵³ *Id.*

⁵⁴ Geoff Pender, et al., *Lawmakers Near Finish Line on Spending Unprecedented State and Federal Funds*, MISS. TODAY (Apr. 4, 2022) <https://mississippitoday.org/2022/04/04/mississippi-budget-work-arpa-spending/>.

⁵⁵ *Mississippi Municipality & County Water Infrastructure Grant Program*, MISS. DEP'T ENV'T QUALITY, <https://mswaterinfrastructure.com/> (last visited May 10, 2023).

⁵⁶ *Id.*

MCWI matching program and any future funding rounds, local governments should consult MDEQ's Grant Program Website, <https://mswaterinfrastructure.com/>, and FAQ Page.⁵⁷

B. Rural Areas & Private Entities

1. Eligibility

Mississippi House Bill 1421 established the ARPA Rural Water Associations Infrastructure Grant Program ("ARPA Rural") to be administered by the Mississippi State Department of Health ("MSDH").⁵⁸ Private, non-profit water associations and water utilities are eligible entities for the ARPA Rural program.⁵⁹ A qualifying water association must have nonprofit or tax-exempt status. Funds are to be used for eligible drinking water infrastructure projects under ARPA,⁶⁰ and each grant applicant is limited to a maximum request of \$2.5 million.⁶¹

2. Application Process

Applications will be accepted on a quarterly basis until the end of 2024, when all funds must be obligated to projects such that funds may be spent by the end of 2026.⁶² The first quarterly cycle ran from July to September 2022.⁶³ The ARPA Rural grant program ranks applications based on a series of criteria:

- (a) The environmental impact of the proposed project;
- (b) The proposed project's ability to address noncompliance with state/federal requirements;
- (c) The extent to which the project promotes economic development;
- (d) The number of people served by the project (both new and existing users);
- (e) Impacts of the proposed project on disadvantaged/overburdened communities;
- (f) The grant applicant's prior efforts to secure funding to address the proposed project's objectives;

⁵⁷ MISS. DEP'T ENV'T QUALITY, MCWI FREQUENTLY ASKED QUESTIONS (2023), <https://mswaterinfrastructure.com/wp-content/uploads/2023/04/FAQ-Update-2022-3-30.pdf>.

⁵⁸ *American Rescue Plan Act (ARPA): Rural Water Associations Infrastructure Grant Program*, MISS. STATE DEP'T OF HEALTH, <https://msdh.ms.gov/page/30,0,76,1000.html> (last visited May 10, 2023).

⁵⁹ *Id.*

⁶⁰ 2022 Miss. H.B. 1421 § 1, <http://billstatus.ls.state.ms.us/documents/2022/pdf/HB/1400-1499/HB1421SG.pdf>.

⁶¹ *FAQ: American Rescue Plan Act Rural Water Associations Infrastructure Grant Program*, MISS. STATE DEP'T OF HEALTH (July 6, 2022) <https://msdh.ms.gov/page/resources/19173.pdf>.

⁶² *American Rescue Plan Act (ARPA): Rural Water Associations Infrastructure Grant Program*, MISS. STATE DEP'T OF HEALTH, <https://msdh.ms.gov/page/30,0,76,1000.html> (last visited May 10, 2023).

⁶³ *See FAQ: American Rescue Plan Act Rural Water Associations Infrastructure Grant Program*, MISS. STATE DEP'T OF HEALTH, <https://msdh.ms.gov/page/resources/19173.pdf>; *American Rescue Plan Act (ARPA): Rural Water Associations Infrastructure Grant Program*, MISS. STATE DEP'T OF HEALTH, <https://msdh.ms.gov/page/30,0,76,1000.html> (last visited May 10, 2023).

- (g) The grant applicant's proposed contribution of other funds or in-kind cost-sharing to the proposed project;
- (h) The grant applicant's long-term plans for the financial and physical operation and maintenance of the project; and
- (i) The grant applicant's capacity to initiate construction in a timely manner and complete the proposed project by the deadline specified by rules and guidelines of the U.S. Treasury for ARPA funds.⁶⁴

MSDH scores applications out of a maximum of 100 points. MSDH gives greater consideration to projects that are resolving a Safe Drinking Water Act violation, considering consolidation or regionalization of a system, and/or are under construction or ready to begin construction promptly.⁶⁵ Applicants that cannot complete a proposed project by the U.S. Treasury's deadlines for ARPA funds are categorically disqualified.⁶⁶

An applicant must request a grant application package from MSDH. Representatives from MSDH are available for a pre-application conference upon request.⁶⁷ All applications must include a Project Cost Breakdown, a completed and signed application form, and additional paperwork concerning project design and construction.⁶⁸ More details about these requirements are available through the MSDH regulations implementing Mississippi House Bill 1421.

If MSDH determines application requirements have been met and the application is received before the deadline while funding remains available, a grant will cover the project's allowable costs and may include a construction contingency.⁶⁹ Payments to an approved grant recipient will be made in the form of reimbursements on regular (no more often than monthly) basis.⁷⁰ Specific project costs, allowable and unallowable, are outlined in Subchapter 4 of the program's implementing regulations.⁷¹ More information for interested applicants can be found in MSDH's regulations,⁷² FAQ page,⁷³ and program website.⁷⁴

⁶⁴ 15-5 MISS. CODE R. § 5.2.7 (2022), <https://msdh.ms.gov/page/resources/18998.pdf>.

⁶⁵ *American Rescue Plan Act (ARPA): Rural Water Associations Infrastructure Grant Program*, MISS. STATE DEP'T OF HEALTH, <https://msdh.ms.gov/page/30,0,76,1000.html> (last visited May 10, 2023).

⁶⁶ 15-5 MISS. CODE R. § 5.2.7 (2022), <https://msdh.ms.gov/page/resources/18998.pdf>.

⁶⁷ 15-5 MISS. CODE R. § 5.3.1 (2022), <https://msdh.ms.gov/page/resources/18998.pdf>.

⁶⁸ 15-5 MISS. CODE R. § 5.3.1 (2022), <https://msdh.ms.gov/page/resources/18998.pdf>.

⁶⁹ See 15-5 MISS. CODE R. § 5.3.3 (2022), <https://msdh.ms.gov/page/resources/18998.pdf>.

⁷⁰ See 15-5 MISS. CODE R. § 5.3.21.3 (2022), <https://msdh.ms.gov/page/resources/18998.pdf>.

⁷¹ See generally 15-5 MISS. CODE R. § 5.4.1–5.4.9 (2022), <https://msdh.ms.gov/page/resources/18998.pdf>.

⁷² MISS. CODE R. Tit. 15, Pt. 20, subpart 72, Ch. 5, <https://msdh.ms.gov/page/resources/18998.pdf>.

⁷³ MISS. DEP'T OF HEALTH, AMERICAN RESCUE PLAN ACT RURAL WATER ASSOCIATIONS INFRASTRUCTURE GRANT PROGRAM FAQ (2022), <https://msdh.ms.gov/page/resources/19173.pdf>.

⁷⁴ *American Rescue Plan Act (ARPA): Rural Water Associations Infrastructure Grant Program: Planning*, MISS. DEP'T OF HEALTH, <https://msdh.ms.gov/page/30,0,76,1000.html#planning>.

C. Local Governments < 50K Population: NEUs

1. Eligibility

NEUs, which are local governments typically serving populations of less than 50,000, are eligible for LFRF. NEUs include cities, villages, towns, townships, or other types of local governments.⁷⁵ NEUs should expect to receive LFRF payments through their state governments, who receive funds from the Treasury and are responsible for distributing these funds to NEUs within their state. Award amounts are based on the population of the NEU.⁷⁶ The Mississippi Department of Finance & Administration (“DFA”) is administering the American Rescue Plan Act program to Mississippi NEUs.⁷⁷

Treasury expects to make payments to states for distribution to NEUs in two equal tranches approximately twelve months apart. As of October 21, 2022, a total amount of \$268 million has been allocated to the State of Mississippi: \$134 million in 2021 and the rest to follow in 2022.⁷⁸ For the State of Mississippi, 291 towns, cities, and/or villages have been identified⁷⁹ as NEUs with local governments as eligible for these funds.⁸⁰ NEUs submit information about their specific locality and can expect total ARPA awards to be capped at 75% of the NEU’s annual total operating budget.⁸¹

⁷⁵ See *Coronavirus State and Local Fiscal Recovery Funds for Non-entitlement Units of Local Government*, U.S. DEP’T OF THE TREASURY, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-fund/non-entitlement-units> (last visited May 10, 2023).

⁷⁶ *Id.*

⁷⁷ *American Rescue Plan Local Fiscal Recovery Funds*, MISS. DEP’T FIN. & ADMIN., <https://www.dfa.ms.gov/arpa> (last visited May 10, 2023).

⁷⁸ See *Status of Payments to States for Distribution to Non-Entitlement Units of Local Governments* (NEUs), U.S. DEP’T OF THE TREASURY, <https://home.treasury.gov/system/files/136/Status-State-NEU-Distribution.pdf> (last visited May 10, 2023).

⁷⁹ *List of Local Governments and their Respective Populations*, U.S. DEP’T OF THE TREASURY, https://home.treasury.gov/system/files/136/List_of_Local_Governments.xlsx (last visited May 10, 2023) (scroll to “MS”).

⁸⁰ *Coronavirus Local Fiscal Recovery Fund: Guidance on Distribution of Funds to Non-Entitlement Units of Local Government*, U.S. DEP’T OF THE TREASURY, https://home.treasury.gov/system/files/136/NEU_Guidance.pdf (last visited May 10, 2023).

⁸¹ MISS DEP’T FIN. & ADMIN., MS CHECKLIST FOR AMERICAN RESCUE PLAN LOCAL FISCAL RECOVERY FUNDS (July 7, 2021) (latest version available for download from <https://merlin.state.ms.us/Stimulus/ARPA.nsf/documentationTemplates?OpenForm>).

2. Application Process

As of May 2023, Mississippi DFA is still preparing a website to host applications for NEUs to request funding.⁸² DFA has nonetheless prepared a portal with accompanying instructions for how NEUs can apply for funding.⁸³

Preparing to request funding, NEUs should gather certain information, including the local government's valid DUNS number, payment information, top-line budget total, award terms and conditions agreement and assurances of compliance with Title VI of the Civil Rights Act of 1964.⁸⁴ Rather than other funding streams, which are tied to the specific preparation of a certain project, NEUs provide a copy of their annual total operating budget (including general fund and any other funds) as of January 27, 2020, that DFA will use to calculate the total award.⁸⁵ Each NEU must provide contact information of a mayor or city manager authorized to certify the budget information provided.⁸⁶

Community Development Block Grant

I. Introduction

The Community Development Block Grant (CDBG) Program provides flexible annual grants to states, cities, and counties to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities mostly for low-and moderate-income communities. The federal program is authorized under Title 1 of the Housing and Community Development Act of 1974. CDBG is administered at the federal level by the U.S. Department of Housing and Urban Development (HUD), which makes funds available to state and local government grantees.⁸⁷

⁸² *American Rescue Plan Local Fiscal Recovery Funds*, MISS. DEP'T FIN. & ADMIN., <https://www.dfa.ms.gov/arpa> (last visited May 10, 2023).

⁸³ *American Rescue Plan Act (ARPA) Funding Request Portal*, MISS. DEPT' OF FINANCE & ADMIN., <https://merlin.state.ms.us/Stimulus/ARPA.nsf/Home?OpenPage>; *American Rescue Plan Act (ARPA) Portal Instructions*, MISS DEP'T FIN. & ADMIN., <https://www.dfa.ms.gov/sites/default/files/ARPA%20Local%20Funds%20Home/ARPA%20Requirements/america-rescue-plan-act-arpa-portal-instructions.pdf> (last visited May 10, 2023). These instructions refer to the ARPA-specific NEU Funding Portal hosted by DFA: *ARPA Funding Request Portal*, MISS. DEP'T OF FIN. & ADMIN., <https://merlin.state.ms.us/Stimulus/ARPA.nsf/Home?OpenPage> (last visited May 10, 2023).

⁸⁴ *Non-entitlement Unit of Local Government Checklist for Requesting Initial Pay*, U.S. DEP'T OF THE TREASURY, https://home.treasury.gov/system/files/136/NEU_Checklist_for_Requesting_Initial_Payment.pdf (last visited May 10, 2023).

⁸⁵ MISS DEP'T FIN. & ADMIN., MS CHECKLIST FOR AMERICAN RESCUE PLAN LOCAL FISCAL RECOVERY FUNDS (July 7, 2021) (latest version available for download from <https://merlin.state.ms.us/Stimulus/ARPA.nsf/documentationTemplates?OpenForm>).

⁸⁶ *Id.*

⁸⁷ *Community Development Block Grant Program*, U.S. DEP'T OF HOUS. & URB. DEV. (Dec. 22, 2022), https://www.hud.gov/program_offices/comm_planning/cdbg.

CDBG's flexible nature allows grantees to use program funds for a range of activities. Program activities typically fall into six broad categories: (1) planning and administrative activities; (2) public works and public facilities; (3) housing-related activities; (4) public services; (5) economic development; and (6) acquisition, demolition, and disposition of real property.⁸⁸ Program activities must meet one of the program's three national objectives: (i) principally benefit low- and moderate-income persons; (ii) aid in the prevention or elimination of slums or blight; or (iii) meet an urgent need by addressing conditions that pose a serious and immediate threat to the health and safety of residents.⁸⁹

CDBG encompasses several types of programs. The largest two programs, which are most relevant to Mississippi Delta Project communities and partners, are the CDBG State Program and the CDBG Entitlement Program. They constitute almost the entirety of standard CDBG funding annually.⁹⁰ Other programs include the Section 108 Loan Guarantee Program, CDBG Disaster Recovery, CDBG Insular Areas (for U.S. Territories), the Colonias Set-Aside, CDBG Recovery Housing Program, and CDBG Disaster Mitigation Funds, among others.⁹¹

II. Funding

CDBG is funded through annual Congressional appropriations. Specifically, CDBG funding is allocated through and constitutes a majority of the Community Development Fund (CDF), which in turn is funded by the Transportation, Housing and Urban Development, and Related Agencies (THUD) appropriations bills.⁹²

For fiscal year 2021, \$3.450 billion of CDF funds were allocated to fund conventional CDBG programs.⁹³ Once appropriated, by statutory requirement, a small fraction of CDBG funds (approximately 1%) are set aside for Indian Tribes and insular areas (which include U.S. territories such as American Samoa and Guam)⁹⁴. The remainder is allocated to the CDBG State Program (approximately 30%) and the CDBG Entitlement Program (approximately 70%) via a formula allocation process.⁹⁵ In 2021, the CDBG allocated \$2.4 billion to the Entitlement Program and \$1 billion to the state program.⁹⁶

⁸⁸ JOSEPH V. JAROSCAK, CONG. RSCH. SERV., R46733, COMMUNITY DEVELOPMENT BLOCK GRANTS: FUNDING AND ALLOCATION PROCESSES 1 (2021), <https://crsreports.congress.gov/product/pdf/R/R46733>.

⁸⁹ *Id.* at 1–2.

⁹⁰ *Id.* at 1.

⁹¹ *Community Development Block Grant*, U.S. DEP'T OF HOUS. & URB. DEV., <https://www.hudexchange.info/programs/cdbg/> (last visited May 10, 2023).

⁹² JOSEPH V. JAROSCAK, CONG. RSCH. SERV., R46733, COMMUNITY DEVELOPMENT BLOCK GRANTS: FUNDING AND ALLOCATION PROCESSES 4 (2021), <https://crsreports.congress.gov/product/pdf/R/R46733>.

⁹³ *Id.*

⁹⁴ *Id.* at 5.

⁹⁵ *Id.* at 5–7.

⁹⁶ *Id.*

In addition to annual appropriations, Congress has authorized supplemental appropriations of funds to CDBG programs (via the CDF fund) for emergency purposes. These supplemental appropriations may exceed annual CDBG and CDF appropriations. For example, in FY2020, \$5 billion of supplemental funds⁹⁷ were allocated to the CDF to fund special CDBG programs including the CDBG CARES Act (CDBG-CV) program which provided grants to states, insular areas, and local governments to prevent, prepare for, and respond to the spread of COVID-19.⁹⁸ By contrast, in FY2021, no supplemental funds were allocated to the CDF/CDBG.⁹⁹

Water and sewer infrastructure improvements accounted for approximately 12% of program expenditures from fiscal year 2016 to 2022. CDBG expenditures for all public improvements overall projects made up approximately 36% of program expenditures over the same period.¹⁰⁰

III. CDBG State Program: Cities with Population <50,000 and Counties with Population <200,000

HUD distributes funding directly to states through the CDBG State Program. States are responsible for preparing and submitting a Consolidated Plan to HUD which describes needs, resources, priorities and proposed activities to be undertaken.¹⁰¹ The amount of funding available varies year to year and HUD utilizes two formulas to determine state allocations.¹⁰² The states then make the funds available only to non-entitlement areas.

Non-entitlement areas are units of general local government that do not qualify for funding under the entitlement program — namely, cities with populations of less than 50,000 (except cities that are designated principal cities of Metropolitan Statistical Areas), and counties with populations of less than 200,000.¹⁰³

States may distribute the funding in a variety of ways, including mini-entitlement programs, competitive grant application process or a regional “fair share” approach.¹⁰⁴ The manner in which

⁹⁷ *Id.* at 15.

⁹⁸ *CDBG-CV Program*, U.S. DEP’T OF HOUS. & URB. DEV., <https://www.hudexchange.info/programs/cdbg-cv/> (last visited May 10, 2023).

⁹⁹ JOSEPH V. JAROSCAK, CONG. RSCH. SERV., R46733, COMMUNITY DEVELOPMENT BLOCK GRANTS: FUNDING AND ALLOCATION PROCESSES 15 (2021), <https://crsreports.congress.gov/product/pdf/R/R46733>.

¹⁰⁰ JONATHAN L. RAMSEUR, CONG. RSCH. SERV., R46471, FEDERALLY SUPPORTED PROJECTS AND PROGRAMS FOR WASTEWATER, DRINKING WATER, AND WATER SUPPLY INFRASTRUCTURE 45 (2022).

¹⁰¹ U.S. DEP’T OF HOUS. & URB. DEV., BASICALLY CDBG CHAPTER 1: OVERVIEW 1-5 (2017), <https://www.hudexchange.info/sites/onecpd/assets/File/Basically-CDBG-State-Chapter-1-Overview.pdf>.

¹⁰² JOSEPH V. JAROSCAK, CONG. RSCH. SERV., R46733, COMMUNITY DEVELOPMENT BLOCK GRANTS: FUNDING AND ALLOCATION PROCESSES 12 (2021), <https://crsreports.congress.gov/product/pdf/R/R46733>.

¹⁰³ *State CDBG Program Eligibility Requirements*, U.S. DEP’T OF HOUS. & URB. DEV., <https://www.hudexchange.info/programs/cdbg-state/state-cdbg-program-eligibility-requirements/> (last visited May 10, 2023). A UGLG refers to any city, county, town, township, parish, village or other general purpose political subdivision of a state. *Id.*

¹⁰⁴ U.S. DEP’T OF HOUS. & URB. DEV., BASICALLY CDBG CHAPTER 2: ACTIVITY SELECTION AND IMPLEMENTATION 2-3 (2014), <https://www.hudexchange.info/sites/onecpd/assets/File/Basically-CDBG-State-Chapter-2-Activity.pdf>.

grantees are selected varies from state to state. Mississippi utilizes an application process and provides a comprehensive guide on how to apply.¹⁰⁵

A minimum of 70 percent of CDBG funds must be used for activities that benefit low- and moderate-income persons.¹⁰⁶ There are a variety of activities that are eligible for funding, including construction of public facilities and improvements, such as water and sewer facilities.¹⁰⁷

In Mississippi, county grantees under the CDBG Entitlement Program are ineligible to apply for the CDBG State Program funds.¹⁰⁸ Similarly, nonprofits, public or private businesses, individuals, and other non-local units of government are also ineligible to apply directly for CDBG State Program funds.¹⁰⁹ Only cities, counties, or other units of local government are eligible for CDBG State Program funds.¹¹⁰

A. Mississippi State Program Allocation

In fiscal year 2020, the total amount of CDBG grants awarded to Mississippi under the CDBG state program was \$20.3 million. Of this total, \$14.0 million was allocated to water/sewer improvements (approximately 69%).¹¹¹ From 2016 to 2020, annual CDBG funds awarded for water/sewer improvements in Mississippi ranged from \$8.7M in 2016 to \$21.1M in 2019.¹¹²

B. Resources to Explain Funding Process

- Find a Grantee in Your Area¹¹³
- State of Mississippi 2022 CDBG Application Manual¹¹⁴
- State of Mississippi General Application Information¹¹⁵

¹⁰⁵ See generally MISSISSIPPI DEV'T AUTHORITY, COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM APPLICATION MANUAL (2022), <https://mississippi.org/wp-content/uploads/2022-CDBG-Application-Manual.pdf>

¹⁰⁶ State CDBG Program Eligibility Requirements, U.S. DEP'T OF HOUS. & URB. DEV., <https://www.hudexchange.info/programs/cdbg-state/state-cdbg-program-eligibility-requirements/> (last May 10, 2023).

¹⁰⁷ *Id.*

¹⁰⁸ MISSISSIPPI DEVELOPMENT AUTHORITY, COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM APPLICATION MANUAL 48 (2022), <https://mississippi.org/wp-content/uploads/2022-CDBG-Application-Manual.pdf>

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ U.S. DEP'T OF HOUS. AND URB. DEV., INTEGRATED DISBURSEMENT AND INFORMATION SYSTEM EXPENDITURE REPORT; USE OF CDBG FUNDS BY MISSISSIPPI (2022), https://files.hudexchange.info/reports/published/CDBG_Expnd_Grant_AAAA-MS_MS_2020.pdf.

¹¹² CDBG Activity Expenditure Reports, U.S. DEP'T OF HOUS. AND URB. DEV., <https://www.hudexchange.info/programs/cdbg/cdbg-expenditure-reports/> (filter by "Mississippi" in "states" dropdown and "Mississippi" in "grantees" dropdown, then click "filter" and open the PDF documents corresponding to each year).

¹¹³ <https://www.hudexchange.info/grantees/>.

¹¹⁴ <https://mississippi.org/wp-content/uploads/2022-CDBG-Application-Manual.pdf>.

¹¹⁵ <https://mississippi.org/community-resources/forms-library/>.

- Video Resources of National Objectives and Eligible Activities¹¹⁶

IV. CDBG Entitlement Program: Larger Cities and Urban Counties

CDBG Entitlement funding is awarded to cities and urban counties. HUD utilizes two formulas to determine which cities and urban counties qualify as Entitlement communities, taking into account population, poverty, and housing overcrowding (Formula A)¹¹⁷ or poverty, housing built before 1940, and lag in population growth rate (Formula B).¹¹⁸ Cities or urban counties receive funding based on whichever formula provides the greater amount of funding.¹¹⁹

CDBG Entitlement communities then distribute the funding to local sub-grantees, which include nonprofits, developers, contractors, and other partners. Sub-grantees apply to receive funding from their city or county.¹²⁰

All Entitlement communities are required to submit Consolidated Plans every three-to-five years, which outline strategies for using CDBG funds over the period.¹²¹ The Consolidated Plan must provide for citizen participation, especially by persons of low- or moderate-income.¹²² Communities must also submit One-Year Action Plans to explain how they intend to use that year's allocation of the Consolidated Plan.¹²³ At the end of the fiscal year, Communities submit a Performance and Evaluation Report (PER) to describe the progress they have made in their project using the CDBG funding.¹²⁴

A. Mississippi Counties Entitlement Allocations

In 2020, six cities in Mississippi were awarded CDBG entitlement funds: Biloxi, Gulfport, Hattiesburg, Jackson, Moss Point, and Pascagoula.¹²⁵ The total amount of entitlement CDBG

¹¹⁶ <https://www.hudexchange.info/trainings/basically-cdbg-online/national-objectives-and-eligible-activities/>.

¹¹⁷ JOSEPH V. JAROSCAK, CONG. RSCH. SERV., R46733, COMMUNITY DEVELOPMENT BLOCK GRANTS: FUNDING AND ALLOCATION PROCESSES 8 (2021), <https://crsreports.congress.gov/product/pdf/R/R46733>.

¹¹⁸ *Id.*

¹¹⁹ See HUD Exchange, *CDBG Formula and Appropriation Process*, YOUTUBE, at 8:56 (Jan. 6, 2016), https://www.youtube.com/watch?v=CW3GwKSOuTM&feature=youtu.be&ab_channel=HUDEXchange.

¹²⁰ See *id.* (discussing subrecipients of local governments).

¹²¹ JOSEPH V. JAROSCAK, CONG. RSCH. SERV., R46733, COMMUNITY DEVELOPMENT BLOCK GRANTS: FUNDING AND ALLOCATION PROCESSES 1 (2021), <https://crsreports.congress.gov/product/pdf/R/R46733>.

¹²² *CDBG Entitlement Program Eligibility Requirements*, U.S. DEP'T OF HOUS. & URB. DEV., <https://www.hudexchange.info/programs/cdbg-entitlement/cdbg-entitlement-program-eligibility-requirements/> (last visited May 10, 2023).

¹²³ U.S. DEP'T OF HOUS. & URB. DEV., BASICALLY CDBG CHAPTER 2: ACTIVITY SELECTION AND IMPLEMENTATION 2-27 (2014), <https://www.hudexchange.info/sites/onecpd/assets/File/Basically-CDBG-State-Chapter-2-Activity.pdf>.

¹²⁴ *Id.* at 2–6.

¹²⁵ *CDBG Activity Expenditure Reports*, U.S. DEP'T OF HOUS. & URB. DEV., <https://www.hudexchange.info/programs/cdbg/cdbg-expenditure-reports/> (filter year by “2020” and state by “Mississippi”).

grants awarded to these six cities in 2020 ranged from around \$60,000 (Gulfport) to \$1.35 million (Jackson), averaging around \$450,000 per city.¹²⁶

Notably, none of the entitlement CDBG funds were awarded for water/sewer improvements.¹²⁷

B. Resources to Explain Funding Process

- HUD CDBG Entitlement Program Overview¹²⁸
- HUD CDBG Entitlement Community Fact Sheet¹²⁹
- Current Mississippi Entitlement Cities and Contact Information¹³⁰
- Example of Sub-Grantee Entitlement Program Application (Jackson, MS)¹³¹

V. Other Relevant Programs: Section 108 Loan Guarantees and Disaster Recovery Fund

CDBG also distributes funding for water resources through the Section 108 Loan Guarantee Program and the Disaster Recovery Fund. The Section 108 Loan Guarantee Program fills the funding gaps in current projects or supplies additional funding for larger projects.¹³²

A. Resources to Explain Section 108 Funding Process

- How the Section 108 Program Works¹³³
- Section 108 Eligibility Requirements¹³⁴
- Apply for the Section 108 Program¹³⁵

¹²⁶ *Id.* (filter year by “2020” and state by “Mississippi” and open PDFs). Biloxi received \$724,000; Gulfport \$58,000; Hattiesburg \$204,000; Jackson \$1.35 million; Moss Point \$66,000; and Pascagoula \$303,000.

¹²⁷ *See generally id.*

¹²⁸ <https://www.hudexchange.info/programs/cdbg-entitlement/>.

¹²⁹ https://www.hud.gov/sites/documents/DOC_17136.PDF.

¹³⁰ <https://www.hud.gov/states/mississippi/community/cdbg>.

¹³¹ <https://www.jacksonms.gov/documents/2022-cdbg-application/>.

¹³² *About the Section 108 Loan Guarantee Program*, U.S. DEP’T OF HOUS. & URB. DEV., <https://www.hudexchange.info/programs/section-108/section-108-program-eligibility-requirements/#overview> (last visited May 10, 2023).

¹³³ <https://www.hudexchange.info/programs/section-108/section-108-program-eligibility-requirements/#how-the-section-108-program-works>.

¹³⁴ <https://www.hudexchange.info/programs/section-108/section-108-program-eligibility-requirements/#section-108-eligibility-requirements>.

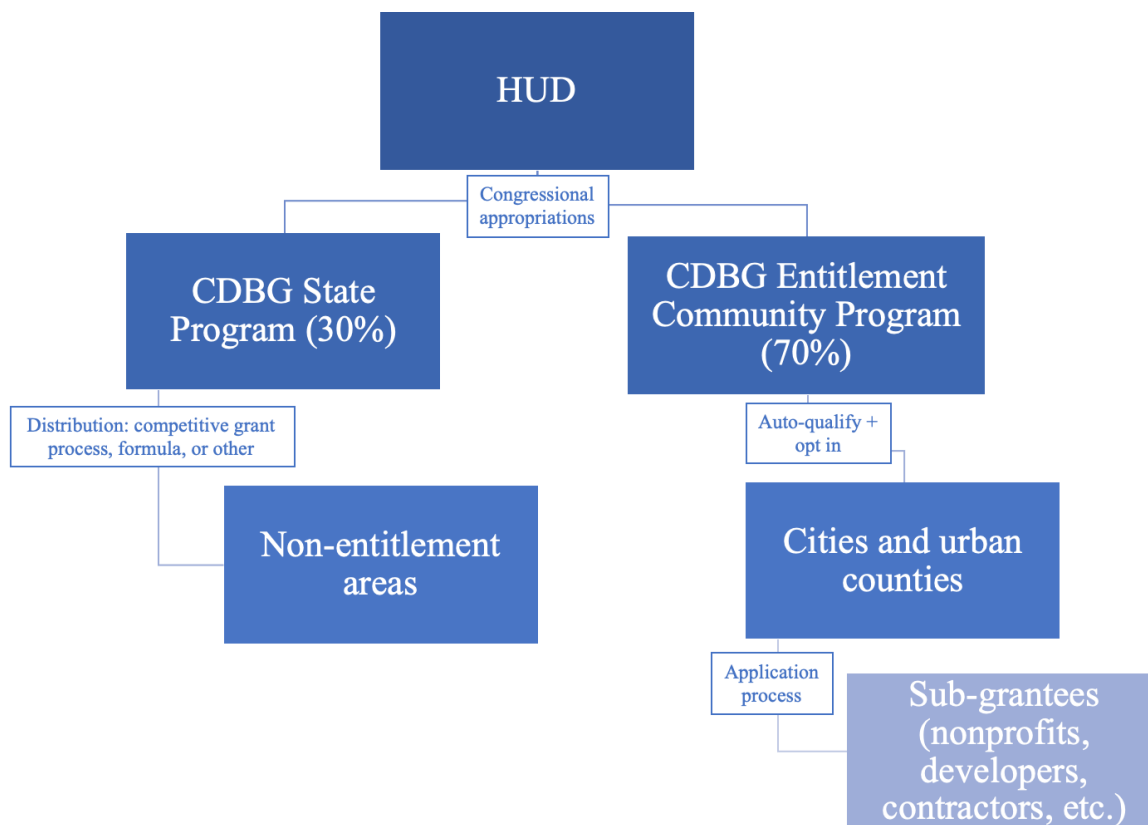
¹³⁵ <https://www.hudexchange.info/programs/section-108/section-108-program-eligibility-requirements/#apply-for-the-section-108-program>.

The Disaster Recovery Fund makes funds available for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization, when applicable.¹³⁶

B. Resources to Explain Funding Process

- Disaster Recovery Fact Sheet¹³⁷
- Disaster Recovery Fund Overview Presentation¹³⁸

C. Major CDBG Programs Overview Chart



¹³⁶ HUD Community Grants and Loans, ENV'T PROT. AGENCY, <https://www.epa.gov/fedfunds/hud-community-grants-and-loans#DR> (last visited May 10, 2023).

¹³⁷ <https://files.hudexchange.info/resources/documents/CDBG-DR-Fact-Sheet.pdf>.

¹³⁸ <https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-Disaster-Recovery-Overview.pdf>.

Infrastructure Investment and Jobs Act

I. Introduction

Congress passed historic funding to upgrade America’s aging infrastructure through the Infrastructure Investment and Jobs Act (often referred to as the Bipartisan Infrastructure Law). The Act, which was passed in November of 2021, included \$55B for drinking and wastewater upgrades — some of which has already started to flow through the states.¹³⁹

With these historic investments in water infrastructure, Mississippi communities have a once-in-a-generation opportunity to repair aging, unsafe, and unsanitary water infrastructure to improve public health and quality of life across the state. However, understanding the different types of funds that are available and navigating the grant writing process to receive those funds is a time consuming and complex process for many communities. This section is meant to serve as a guide for Mississippi communities, non-profits, and institutions to understand the types of water infrastructure funding that are available as a result of the Infrastructure Investment and Jobs Act and to provide contact information for government agencies tasked with disbursing those funds.

II. Infrastructure Investment and Jobs Act (IIJA) State Water Revolving Loan Funding (SRF) in Mississippi

Where to apply: *Mississippi Department of Health, Mississippi Department of Environmental Quality*

Mississippi will receive roughly \$75 million in water infrastructure funding from the IIJA, which will be administered through the state’s water revolving loan funds (SRF).¹⁴⁰ The funds will be split into five individual buckets — three of which are focused on drinking water and will be administered through Mississippi’s Drinking Water State Revolving Loan Fund (DWSRF), and two of which are focused on wastewater and will be administered through Mississippi’s Water Pollution Control Revolving Loan Fund (WPCRLF). All of the funding buckets have differing program guidelines, state matching requirements, and opportunities for low income communities.¹⁴¹

¹³⁹ *Delivering Results from President Biden’s Bipartisan Infrastructure Law*, BUILD.GOV, <https://www.whitehouse.gov/build/> (last visited May 9, 2023).

¹⁴⁰ ENV’T PROT. AGENCY, BIPARTISAN INFRASTRUCTURE LAW: ENVIRONMENTAL PROTECTION AGENCY 2022 STATE REVOLVING FUND (SRF) GRANTS TO STATES, TRIBES, AND TERRITORIES BY PROGRAM (2021), <https://www.epa.gov/system/files/documents/2021-12/fy-2022-bil-srfs-allotment-summary-508.pdf>.

¹⁴¹ *Id.*

DWSRF General	DWSRF Lead Service Line Replacement	DWSRF Emerging Contaminants	WPCRLF General	WPCRLF Emerging Contaminants
\$19,368,000	\$30,518,000	\$8,133,000	\$16,035,000	\$842,000

DWSRF General Funds

Where to apply: *State of Mississippi Department of Health*

Mississippi is set to receive ~\$19M for general drinking water upgrades from the IIJA. Unlike the Lead Service Line Replacement and Emerging Contaminants programs, these funds can be used on any drinking water project (including upgrading water lines that are not lead-based and improving filtration systems at drinking water treatment plants).¹⁴²

Under the IIJA, 49% of this allocation must be administered as grants and forgivable loans to “disadvantaged communities” as defined by individual states.¹⁴³ The remaining 51% of funds are available to communities as low interest loans.¹⁴⁴ Additionally, states are required to provide a 10% match for funding during FYs 2022 & 2023 and a 20% match for FYs 2024 & 2025.¹⁴⁵ DWSRF general grants will be administered through the Mississippi Department of Health under their existing Drinking Water State Revolving Fund regime.¹⁴⁶

DWSRF Lead Service Line Replacement Program

Where to apply: *Mississippi Department of Health*

The largest portion of Mississippi’s allocation for water infrastructure funding under the IIJA is reserved for lead service line replacement projects.¹⁴⁷ These funds are specifically reserved for replacing *whole* lead service lines.¹⁴⁸ Projects looking to partially replace a lead service line will not be funded unless the line in question has already undergone a partial replacement and the funds are being sought to complete replacement of the line.¹⁴⁹ These funds do not require a state

¹⁴² 42 U.S.C. § 300j–12(b) (2022). For a list of eligible projects in Mississippi, see DRINKING WATER SYSTEMS IMPROVEMENTS REVOLVING FUND FFY-2023 INTENDED USE PLAN, MISS. DEP’T OF HEALTH 18–20 (2023), <https://msdh.ms.gov/page/resources/19617.pdf>.

¹⁴³ DRINKING WATER SYSTEMS IMPROVEMENTS REVOLVING FUND FFY-2023 INTENDED USE PLAN, MISS. DEP’T OF HEALTH 17 (2023), <https://msdh.ms.gov/page/resources/19617.pdf>; 42 U.S.C. § 300j–12(d) (2022).

¹⁴⁴ *Id.* at xxvii. Mississippi’s interest rate for DWSRF projects in FY 2021 was 1.95% per year. *Id.* at 10.

¹⁴⁵ *Id.* at xxvii.

¹⁴⁶ *Id.* at 2.

¹⁴⁷ *Id.* at xxvii.

¹⁴⁸ See ENV’T PROT. AGENCY, BIPARTISAN INFRASTRUCTURE LAW: STATE REVOLVING FUNDS IMPLEMENTATION MEMORANDUM MARCH 2022 2 (2022), <https://www.epa.gov/system/files/documents/2022-03/bil-srf-memo-fact-sheet-final.pdf>.

¹⁴⁹ *Id.*

match, and 49% of the funds are specifically reserved as grants and forgivable loans for disadvantaged communities as defined by the state (similar to the breakdown for general DWSRF projects).¹⁵⁰ The remaining 51% are available to communities as low interest loans.¹⁵¹

DWSRF Emerging Contaminants Program

Where to apply: *Mississippi Department of Health*

Mississippi will receive ~\$8M to address emerging contaminants in drinking water. Although not specifically defined, emerging contaminants include PFAS chemicals, including PFAS, PFOA, and PFOS, that have been linked to endocrine disruption, cancer, kidney failure, and other chronic diseases.¹⁵² These funds do not require a state match, and must be distributed to communities entirely as grants and forgivable loans.¹⁵³ Additionally, 25% of the funds are reserved for disadvantaged communities as defined by the state *or* communities or public water systems serving fewer than 25,000 people.¹⁵⁴

WPCRLF General Funds

Where to apply: *Mississippi Department of Environmental Quality*

The largest non-drinking water allocation of funds is reserved for Mississippi's Water Pollution Control Revolving Loan Fund. While the WPCRLF can be used for a wide variety of projects, it is most typically used for community-wide wastewater and stormwater projects (like building and upgrading wastewater treatment plants, replacing culverts, and increasing volume along major wastewater lines).¹⁵⁵ Mississippi is receiving ~\$16M for these projects.¹⁵⁶

¹⁵⁰ See ENV'T PROT. AGENCY, BIPARTISAN INFRASTRUCTURE LAW: STATE REVOLVING FUNDS IMPLEMENTATION MEMORANDUM MARCH 2022 1–2 (2022), <https://www.epa.gov/system/files/documents/2022-03/bil-srf-memo-fact-sheet-final.pdf>.

¹⁵¹ See DRINKING WATER SYSTEMS IMPROVEMENTS REVOLVING FUND FFY-2023 INTENDED USE PLAN, MISS. DEP'T OF HEALTH xxvii (2023), <https://msdh.ms.gov/page/resources/19617.pdf>.

¹⁵² See ENV'T PROT. AGENCY, BIPARTISAN INFRASTRUCTURE LAW: STATE REVOLVING FUNDS IMPLEMENTATION MEMORANDUM MARCH 2022 1–2 (2022), <https://www.epa.gov/system/files/documents/2022-03/bil-srf-memo-fact-sheet-final.pdf>; *Emerging Contaminants in Small or Disadvantaged Community Grants*, ENV'T PROT. AGENCY (Feb. 28, 2023), <https://www.epa.gov/dwcapacity/emerging-contaminants-ec-small-or-disadvantaged-communities-grant-sdc>.

¹⁵³ See DRINKING WATER SYSTEMS IMPROVEMENTS REVOLVING FUND FFY-2023 INTENDED USE PLAN, MISS. DEP'T OF HEALTH xxvii (2023), <https://msdh.ms.gov/page/resources/19617.pdf>.

¹⁵⁴ 42 U.S.C. §300j-12(a)(ii)(G) (2022).

¹⁵⁵ WATER POLLUTION CONTROL REVOLVING LOAN FUND FY-2022 INTENDED USE PLAN, MISS. DEP'T ENV'T QUALITY 36–39 (2022), <https://www.mdeq.ms.gov/wp-content/uploads/2022/11/Final-FY2022-IUP.pdf>.

¹⁵⁶ ENV'T PROT. AGENCY, BIPARTISAN INFRASTRUCTURE LAW: ENVIRONMENTAL PROTECTION AGENCY 2022 STATE REVOLVING FUND (SRF) GRANTS TO STATES, TRIBES, AND TERRITORIES BY PROGRAM (2021), <https://www.epa.gov/system/files/documents/2021-12/fy-2022-bil-srfs-allotment-summary-508.pdf>.

WPCRLF funds under the IIJA require a 10% state match for FYs 2022 & 2023, and a 20% match for FYs 2024–2025.¹⁵⁷ Additionally, 49% of funding in this bucket must be reserved as grants and forgivable loans for disadvantaged communities, *or* for projects that fall under those described in section 603(i) of the Clean Water Act.¹⁵⁸ These projects include those that are necessary to avoid extraordinary rate increases for customers, projects that will improve water efficiency, and stormwater projects. The remaining 51% of funding is dedicated for low interest loans.¹⁵⁹ Unlike the drinking water programs, Mississippi’s waste and stormwater infrastructure projects are funded through the Mississippi Department of Environmental Quality (MDEQ) and their Construction Division.¹⁶⁰

WPCRLF Emerging Contaminants

Where to apply: *Mississippi Department of Environmental Quality*

Mississippi’s final earmarked allocation under the IIJA is for emerging contaminants through the WPCRLF. Through this program, Mississippi is set to receive ~\$840,000 to address discharges of PFAS and other emerging contaminants from point sources, wastewater treatment plants, and potentially, non-point sources.¹⁶¹ These funds do not require a state matching grant, and 100% of the funds are to be distributed to communities as grants or forgivable loans.¹⁶² Once again, these grants will be administered via MDEQ.¹⁶³ In its 2022 Intended Use Plan, MDEQ stated its intent to delay disbursement of these funds until FY 2023 to allow time for further study of the best use of these funds.¹⁶⁴

III. Additional IIJA Drinking Water Infrastructure Funding Opportunities

Also included in the IIJA are several funding opportunities that are not automatically given to the states through the state revolving loan funds. The Environmental Protection Agency administers

¹⁵⁷ ELENA H. HUMPHREYS & JONATHAN L. RAMSEUR, CONG. RSCH. SERV., R46892, INFRASTRUCTURE INVESTMENT AND JOBS ACT (IIJA): DRINKING WATER AND WASTEWATER INFRASTRUCTURE 8 (2022) <https://crsreports.congress.gov/product/pdf/R/R46892>.

¹⁵⁸ *Id.*

¹⁵⁹ The Mississippi Department of Environmental Quality’s FY 2022 Intended Use Plan or this program gives two options for interest rates. Interest rates are either a 0.8% annual interest rate compounded monthly for 20-year projects; or, a 1.8% annual interest rate compounded monthly for 30-year projects. WATER POLLUTION CONTROL REVOLVING LOAN FUND FY-2022 INTENDED USE PLAN, MISS. DEP’T ENV’T QUALITY 7 (2022), <https://www.mdeq.ms.gov/wp-content/uploads/2022/11/Final-FY2022-IUP.pdf>.

¹⁶⁰ *Id.* at 1.

¹⁶¹ ELENA H. HUMPHREYS & JONATHAN L. RAMSEUR, CONG. RSCH. SERV., R46892, INFRASTRUCTURE INVESTMENT AND JOBS ACT (IIJA): DRINKING WATER AND WASTEWATER INFRASTRUCTURE 8 (2022) <https://crsreports.congress.gov/product/pdf/R/R46892>.

¹⁶² *Id.* at 8.

¹⁶³ *See* WATER POLLUTION CONTROL REVOLVING LOAN FUND FY-2022 INTENDED USE PLAN, MISS. DEP’T ENV’T QUALITY 1 (2022), <https://www.mdeq.ms.gov/wp-content/uploads/2022/11/Final-FY2022-IUP.pdf>.

¹⁶⁴ *Id.* at 8.

these opportunities, and states, local governments, non-profits, and institutions can apply to receive funding each fiscal year for individual projects.

Training and Technical Assistance for Small Systems

Where to apply: *U.S. Environmental Protection Agency, RCAP, or NRWA*

The IIJA includes \$60M for technical assistance to small water systems. Nonprofits and institutions are invited to apply for funding each fiscal year through FY 2026 for projects that will help build the financial and technical capacity of small water systems.¹⁶⁵ Previous grant recipients include the Rural Community Assistance Partnership (RCAP),¹⁶⁶ the National Rural Water Association (NRWA),¹⁶⁷ and the University of New Mexico.¹⁶⁸ Both RCAP and NRWA have individual programs geared towards disbursing their grants to small water systems that can be viewed on their website.

General Assistance for Small and Disadvantaged Communities

Where to apply: *U.S. Environmental Protection Agency*

The IIJA also includes specific funding for water system improvements in small and disadvantaged communities as a “re-up” of the Water Infrastructure Improvements for the Nation grant program.¹⁶⁹ Under this section of the law, water systems in communities that are “disadvantaged” as defined by the state, or systems in communities with less than 10,000 people, can apply for funding from the EPA for a broad array of projects, including: investments that are required to bring the system into compliance with the Safe Drinking Water Act, affordability programs, household water quality testing programs, and the installation of filtration systems.¹⁷⁰

Interested communities can apply on the EPA’s website or may petition their state to apply on their behalf. The IIJA dedicates the following amount of funding to this program for future fiscal years:

¹⁶⁵ 42 U.S.C. § 300j-1(e) (2022).

¹⁶⁶ RCAP Managerial & Financial Hub, RCAP, <https://www.rcap.org/managerialfinancialhub/>.

¹⁶⁷ NAT’L RURAL WATER ASS’N, <https://nrwa.org/>. In addition to having a national focus, the Rural Water Association has state affiliates, including the Mississippi RWA, <https://msrwa.org/>. Their website has several resources, including a regular calendar of training events for small water suppliers.

¹⁶⁸ *Training and Technical Assistance for Small Systems Funding*, ENV’T PROT. AGENCY (Apr. 4, 2023), <https://www.epa.gov/dwcapacity/training-and-technical-assistance-small-systems-funding>.

¹⁶⁹ *WIIN Grant: Small, Underserved, and Disadvantaged Communities Grant Program*, ENV’T PROT. AGENCY, <https://www.epa.gov/dwcapacity/wiin-grant-small-underserved-and-disadvantaged-communities-grant-program-0#timeline>.

¹⁷⁰ 42 U.S.C. § 300j-19a(c), (b)(2) (2022).

Additional General Funding Available for Small and Disadvantaged Communities under IIJA ¹⁷¹				
FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
\$70M	\$80M	\$100M	\$120M	\$140M

Generally, communities are required to pay for at least 10% of their project costs under this grant.¹⁷² However, communities may apply for a waiver if they are financially incapable of cost-sharing, or if cost-sharing would impose a significant hardship on the system's ratepayers.¹⁷³ Projects are ultimately prioritized for individual states in consultation with the EPA.

In addition to the aforementioned funds, which are to be awarded as part of a noncompetitive grant program, the EPA is also authorized to give an extra \$50M to states each fiscal year through a competitive grant program.¹⁷⁴ Outside of the competitive nature of these grants, other stipulations of these funds are the same (i.e. the funds may be used for the same projects, and the same entities are encouraged to apply for funding). Finally, states that have a high number of residents who do not have household drinking or wastewater services are prioritized in the competitive grant process.¹⁷⁵

Addressing Natural Threats to Drinking Water

Where to apply: *U.S. Environmental Protection Agency*¹⁷⁶

Small and Disadvantaged Communities

Drinking water sources in areas prone to natural disasters (such as flooding) are more at risk of being threatened by biological or chemical hazards.¹⁷⁷ As a result, the IIJA dedicates \$25M each year through fiscal year 2026 for projects that improve resilience to natural disaster related threats in small¹⁷⁸ and disadvantaged communities.¹⁷⁹ Eligible projects include: the relocation of drinking water infrastructure that is often impacted by floods, water conservation mechanisms in

¹⁷¹ 42 U.S.C. § 300j-19a(k) (2022).

¹⁷² 42 U.S.C. § 300j-19a(g)(1) (2022).

¹⁷³ 42 U.S.C. § 300j-19a(h) (2022).

¹⁷⁴ 42 U.S.C. § 300j-19a(n) (2022).

¹⁷⁵ 42 U.S.C. § 300j-19a(n)(2)(C) (2022).

¹⁷⁶ As of May 2023, EPA has not yet posted an application link for the Addressing Natural Threats to Drinking Water Grant program.

¹⁷⁷ 42 U.S.C. § 300j-19a(l)(6) (2022).

¹⁷⁸ "Small" communities under this section of the IIJA serve <10,000 people.

¹⁷⁹ 42 U.S.C. § 300j-19a(l)(5) (2022).

drought-prone areas, the enhancement of water supply through watershed management, and other projects that increase system-wide resilience to threats.¹⁸⁰

Although the EPA has not yet posted a grant application page as of this writing, a recent fact sheet by the Agency states that an application portal will likely be in Spring 2023, and includes helpful links for communities seeking to improve their resilience to natural threats.¹⁸¹

Large and Mid-Sized Communities

For large and mid-sized¹⁸² communities, the IIJA appropriates \$50M annually for projects that either address natural or cybersecurity threats to drinking water sources.¹⁸³ Eligible projects include: the relocation of drinking water infrastructure that is often impacted by floods, the enhancement of water supply through watershed management, and various water conservation mechanisms in drought-prone areas (such as the construction of desalination plants and the consolidation of multiple water systems).¹⁸⁴

Connecting Rural Homeowners with Public Water Systems

Where to apply: *U.S. Environmental Protection Agency*¹⁸⁵

The IIJA also includes assistance for low-income homeowners seeking to connect to local public water systems.¹⁸⁶ Under this section, nonprofits or public water systems can apply for funding to connect low-income homeowners as long as they demonstrate that the homeowner is eligible for assistance,¹⁸⁷ the public water system has agreed to the connection, and the connection would not violate any state or local regulations.¹⁸⁸ The IIJA includes \$20M annually for this program from FY2022 – 2026.¹⁸⁹

¹⁸⁰ 42 U.S.C. § 300j-19a(l)(3) (2022).

¹⁸¹ ENV'T PROT. AGENCY, DRINKING WATER INFRASTRUCTURE RESILIENCE & SUSTAINABILITY GRANT (2023), https://www.epa.gov/system/files/documents/2023-03/Factsheet_Statute%20Description%20and%20Tools%20for%20Infra%20Resilience%20and%20Sustainability%20Grant%20Dec%202022.pdf (last visited May 10, 2023).

¹⁸² “Large” communities are defined as those with a population >100,000, while “mid-sized” communities have a population between 10,000 and 100,000. Under this section, \$25M (or 50% of the allocation) is reserved for each community type. 42 U.S.C. 300j-19g(f)(2) (2022).

¹⁸³ 42 U.S.C. 300j-19g(f)(2) (2022).

¹⁸⁴ 42 U.S.C. 300j-19g(c) (2022).

¹⁸⁵ As of May 2023, the EPA has not yet posted an application link for the “Connecting Rural Homeowners with Public Water Systems” Grant Program.

¹⁸⁶ 42 U.S.C. § 300j-19a(m) (2022).

¹⁸⁷ Homeowners are eligible for assistance if their household makes less than the median, non-metropolitan household income for the state in which they are in. 42 U.S.C. § 300j-19a(m)(B).

¹⁸⁸ 42 U.S.C. § 300j-19a(m)(4) (2022).

¹⁸⁹ 42 U.S.C. § 300j-19a(m)(6) (2022).

Although the EPA has not yet released the grant application portal for this program, the EPA's 2023 prospective budget includes \$40M (assumedly, \$20M to make up for a lack of funding in 2022, and \$20M for FY 2023).¹⁹⁰

Reducing Lead in Drinking Water

Where to apply: *U.S. Environmental Protection Agency*

Outside of funding automatically given to the states to reduce lead in drinking water through the SRFs, the IJA also established a competitive grant process for communities to replace lead service lines.¹⁹¹ Under this section, public water suppliers, nonprofit organizations qualified in lead reduction techniques, and government agencies can apply for funding to test for the presence of lead in drinking water and replace lead service lines.¹⁹² The grant program is specifically designed to prioritize the replacement of lead service lines in low-income communities, especially those that have exceeded a lead action level within the last 3 years.¹⁹³

Furthermore, entities seeking to replace lead service lines using funding under this section must:

1. Completely replace the lead service line, including any privately owned portion¹⁹⁴
2. Notify customers of the replacement of a lead service line that affects their home,¹⁹⁵ and
3. Notify customers that publicly owned lead service lines cannot be replaced unless privately owned portions are also replaced¹⁹⁶

The entity may offer to replace privately owned portions of lead service lines at cost (or at no cost to the homeowner).¹⁹⁷ For low-income homeowners, entities must offer to replace privately owned portions of lead service lines at no cost to the homeowner.¹⁹⁸

The EPA may disburse up to \$100M per year for FYs 2022-2026 under this grant program.¹⁹⁹ While communities are generally expected to pay for at least 20% of each project, communities can also apply for a reduced cost sharing percentage.²⁰⁰

¹⁹⁰ ENV'T PROT. AGENCY, FY 2023 EPA BUDGET IN BRIEF (2022),

<https://www.epa.gov/system/files/documents/2022-03/fy-2023-epa-bib.pdf>.

¹⁹¹ WIIN Grant: Reducing Lead in Drinking Water, ENV'T PROT. AGENCY, <https://www.epa.gov/dwcapacity/wiin-grant-reducing-lead-drinking-water#contact>.

¹⁹² 42 U.S.C. § 300j-19b(a)(1)–(2) (2022).

¹⁹³ 42 U.S.C. § 300j-19b(b)(3) (2022).

¹⁹⁴ 42 U.S.C. §300j-19b(a)(2)(A) (2022).

¹⁹⁵ 42 U.S.C. §300j-19b(b)(6) (2022).

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ 42 U.S.C. §300j-19b(e) (2022).

²⁰⁰ 42 U.S.C. §300j-19b(b)(4) (2022).

In addition to \$100M per year, the EPA may also disburse \$10M annually as part of a pilot program to assist communities in conducting a lead service line inventory.²⁰¹ To be eligible for the program, communities must demonstrate that at least 30% of the service lines in the community are made of (or are suspected to be made of) lead.²⁰²

Operational Sustainability for Small Drinking Water Systems

Where to apply: *U.S. Environmental Protection Agency*²⁰³

The IIJA includes \$50M annually through FY 2026 for projects that improve the “operational sustainability” of small water suppliers.²⁰⁴ Drinking water systems serving fewer than 10,000 people can apply for grants to improve their ability to detect potential water leaks, breaks, and other metering-related losses of potable water.²⁰⁵ Projects eligible for funding under this section include: the installation of water leak sensing technology, asset mapping, and asset management.²⁰⁶ Entities funded under this program must pay at least 10% of their project costs.²⁰⁷

Rural and Low Income Water Assistance Program

Where to apply: *U.S. Environmental Protection Agency*²⁰⁸

Accessing clean drinking water has become more and more difficult for thousands of families that struggle with the rising costs of water. To help combat water affordability issues, the IIJA directs the EPA to pilot a grant program focused on providing water assistance to rural and low income communities.²⁰⁹ Although the IIJA does not provide much guidance for communities seeking to apply for these funds, it does suggest that up to 32 communities across the country may be eligible for funding (including 8 rural communities, 8 mid-sized communities, 8 large communities, and 8 low income communities).²¹⁰ To date, the EPA has not yet released information on this grant program, though the IIJA states that the program must be launched by November 15, 2023.²¹¹

²⁰¹ 42 U.S.C. §300j-19b(d) (2022).

²⁰² 42 U.S.C. §300j-19b(d)(1)(a) (2022).

²⁰³ *Training and Technical Assistance for Small Systems Funding*, ENV’T PROT. AGENCY, <https://www.epa.gov/dwcapacity/training-and-technical-assistance-small-systems-funding>.

²⁰⁴ 42 U.S.C. §300j-19f(h) (2022).

²⁰⁵ 42 U.S.C. §300j-19f(a)(4), (e) (2022).

²⁰⁶ 42 U.S.C. §300j-19f(e) (2022).

²⁰⁷ *Id.*

²⁰⁸ The EPA has not yet posted the “Rural and Low Income Water Assistance Program” Grant Application.

²⁰⁹ Infrastructure Investment and Jobs Act § 50109, 135 Stat. 1148 (2021), <https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf>.

²¹⁰ Infrastructure Investment and Jobs Act § 50109(b)(6), 135 Stat. 1149 (2021), <https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf>.

²¹¹ Infrastructure Investment and Jobs Act § 50109(b)(1), 135 Stat. 1148 (2021), <https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf>.

IV. Additional IJA Wastewater Infrastructure Funding Opportunities

In addition to the multitude of opportunities the IJA presents for upgrades to drinking water infrastructure, there are several additional opportunities (in excess of what is already given to the states through the Clean Water State Revolving Loan Funds) that communities can use to improve their wastewater infrastructure.

Sewer Overflow and Stormwater Reuse Grant Program

Where to apply: *Mississippi Department of Environmental Quality*²¹²

States receive funding through the Sewer Overflow and Stormwater Reuse Grant Program²¹³ (abbreviated OSG by the EPA) for projects that minimize combined sewer overflows (CSOs), sanitary sewer overflows, and stormwater runoff.²¹⁴ Under the IJA, this existing program received a notable increase in available funds for FYs 2022-2026 (up to \$280M annually),²¹⁵ and was reorganized to better focus on disbursing funds to rural and disadvantaged communities.²¹⁶

According to the redesigned program, states will receive funds from the federal government²¹⁷ and then disburse them to local communities according to their own state grant program.²¹⁸ States are required to give at least 25% of their total funds to rural and disadvantaged communities each year (as long as there are enough rural and disadvantaged communities that apply for funding), and of that 25%, at least 60% of it must be given to rural communities.²¹⁹ Furthermore, to the extent that there are enough project funding requests, 20% of all funds under this program must be used for projects that incorporate green infrastructure.²²⁰

²¹² *Water Pollution Control (Clean Water) Revolving Loan Fund (WPCRLF) Program*, MISS. DEP'T ENV'T QUALITY <https://www.mdeq.ms.gov/about-mdeq/grants-loans-and-trust-funds-available-through-mdeq/water-pollution-control-clean-water-revolving-loan-fund-wpcrlf-program/>.

²¹³ *Sewer Overflow and Stormwater Reuse Municipal Grants Program*, ENV'T PROT. AGENCY, <https://www.epa.gov/cwsrf/sewer-overflow-and-stormwater-reuse-municipal-grants-program>.

²¹⁴ 33 U.S.C. § 1301(a)(1) (2022).

²¹⁵ 33 U.S.C. § 1301(f)(1) (2022).

²¹⁶ 33 U.S.C. § 1301(f)(2)(b) (2022).

²¹⁷ In FY 2022, Mississippi received \$356k, or 0.84% of the nationally available funds. If the percentage formula does not change, Mississippi should expect to receive ~\$2.3M for FYs 2023 - 2026 as the totally available national funds for this program increases to \$280M per year. See ENV'T PROTECTION AGENCY, SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANTS PROGRAM: GRANT IMPLEMENTATION DOCUMENT 13 (2021), https://www.epa.gov/sites/default/files/2021-03/documents/osg_program_implementation_document.pdf.

²¹⁸ 33 U.S.C. § 1301(a)(1) (2022).

²¹⁹ 33 U.S.C. § 1301(f)(2)(B)(ii) (2022).

²²⁰ 33 U.S.C. § 1301(f)(2)(A) (2022).

Although states and local governments are expected to pay up to 20% of the cost of projects funded under this program, the EPA provides flexibility on if and how communities cost share.²²¹ Notably, states that use a higher percentage of funds from the OSG program on rural and disadvantaged communities are not required to pay the full federal cost share (i.e. if a state uses 50% of its funds on rural and disadvantaged communities as opposed to the minimum 25%, that state only has to pay a 10% cost share).²²²

Clean Water Infrastructure Resiliency and Sustainability Program

Where to apply: *U.S. Environmental Protection Agency*²²³

The IIJA includes \$25M annually from FY 2022 - 2026 for communities seeking to increase their water treatment systems' resilience to natural hazards and cybersecurity threats.²²⁴ Projects eligible for funding under this grant program include: the installation of green infrastructure, reclamation of lands for stormwater retention purposes, the relocation or modification of existing infrastructure that is threatened by natural resources, and other mitigation measures.²²⁵

Entities seeking funding under this program are generally expected to provide a 25% match.²²⁶ However, rural and low income communities applying for grants under this section are only required to pay for a maximum of 10% of the projects' cost and have the option to get the entire cost-sharing requirement waived.²²⁷ Eligible entities for program funding include municipalities and state agencies.²²⁸

Assistance for Low Income Homeowners with Failing Septic Systems

Where to apply: *U.S. Environmental Protection Agency, Mississippi Rural Water Association*²²⁹

Many rural households struggle to afford costly repairs to septic systems on their property. To help homeowners repair failing septic systems and avoid groundwater pollution associated with leaking tanks, the IIJA includes \$50M annually for a grant program geared at providing individual homeowners with septic tank assistance.²³⁰ Money for this program flows from the

²²¹ RADHIKA FOX, ENV'T PROT. AGENCY, MEMORANDUM, AMENDMENTS TO THE SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANTS PROGRAM AND ALLOCATION OF FEDERAL FISCAL YEAR 2022 FUNDING 1 (2022), <https://www.epa.gov/system/files/documents/2022-11/OSG-BIL-amendments-and-FY22-allotment.pdf>.

²²² *Id.* at 2.

²²³ Interested municipalities and community organizations should contact their local region (Region 4). Region 4's contact is, as of this writing, Yvonne Gonzalez (Gonzalez.yvonne@epa.gov).

²²⁴ 33 U.S.C. § 1302a(g)(1) (2022).

²²⁵ 33 U.S.C. § 1302a(c) (2022).

²²⁶ 33 U.S.C. § 1302a(e)(1) (2022).

²²⁷ 33 U.S.C. § 1302a(e)(2) (2022).

²²⁸ 33 U.S.C. § 1302a(a)(1) (2022).

²²⁹ Mississippi Rural Water Association, <https://msrwa.org/>.

²³⁰ 33 U.S.C. § 1302d (2022).

EPA to non-profits skilled in septic tank replacement²³¹ — from there, homeowners (or groups of homeowners that have a shared septic system) can apply for assistance directly from the non-profit.²³² To be eligible for assistance, households must make less than their state’s non-metropolitan median household income²³³. Additionally, prioritization for assistance will be given to households who do not have reliable access to a sanitary disposal system.²³⁴

Connecting Homeowners to Publicly Owned Treatment Centers

Where to apply: *U.S. Environmental Protection Agency*

The IIJA includes \$40M annually for FYs 2022-2026 to help rural homeowners connect their households to local publicly owned treatment systems.²³⁵ Under this section of the law, municipalities and nonprofits can apply for funding in order to help homeowners connect their systems to a community wide system, provided that the homeowner is voluntarily connecting to a publicly owned system and that the system itself has agreed to the connection.²³⁶ Additionally, individual homeowners who have already connected to a publicly owned treatment system may be able to receive a grant to reimburse them for the connection cost (either through a direct payment, or by reducing the amount the homeowner has to pay on any outstanding loan that was used to finance the project).²³⁷ Under this program, at least 15% of the funds must be reserved for municipalities whose water systems serve less than 3,300 people (provided that there is sufficient interest for assistance).²³⁸

Justice40 Initiative

I. Introduction

Justice40 is a federal initiative mandating that the benefits of at least 40% of certain federal programs flow to disadvantaged communities. Since the January, 2021, launch of the initiative in EO 14008, the Biden Administration has designated 454 federal programs for inclusion in the initiative, as of April 2023.²³⁹ In other words, at least 40% of the benefits from each of these 454 programs must be directed toward **disadvantaged communities**.

²³¹ It is unclear whether the EPA has already disbursed funds to non-profits, and if so, which ones. However, the Rural Water Association seems to have received many grants from the EPA in relation to technical assistance to rural communities; therefore, individuals should likely reach out to their state affiliate to gather more information on if they provide assistance.

²³² 33 U.S.C. § 1302d(c) (2022).

²³³ 33 U.S.C. § 1302d(a) (2022).

²³⁴ 33 U.S.C. § 1302(c)(3) (2022).

²³⁵ 33 U.S.C. § 13023(f)(1) (2022).

²³⁶ 33 U.S.C. § 1302a(e) (2022).

²³⁷ 33 U.S.C. § 1302a(e)(2) (2022).

²³⁸ 33 U.S.C. § 1302a(f)(2) (2022).

²³⁹ Please note that the number of programs included in Justice40 is subject to change.

To be clear: Justice40 **does not** create *new* programs and funding opportunities to benefit disadvantaged communities. Rather, the program mandates that federal agencies restructure *existing* programs and funding opportunities to ensure at least 40% of their benefits flow toward disadvantaged communities. This section discusses programs designated for Justice40 that may be relevant to water infrastructure funding in Mississippi.

A. What's a Disadvantaged Community?

To identify communities that have been marginalized, underserved, and overburdened by pollution, the Biden Administration has launched the Climate and Economic Justice Screening Tool (CEJST).²⁴⁰ Federal agencies will use the CEJST to identify the disadvantaged communities eligible to benefit from Justice40-designated programs.

B. Which Delta Communities Qualify as Disadvantaged Communities?

As of May 2023, census tracts in the following Delta counties have been designated as disadvantaged by the CEJST. Check the CEJST for more granular information on which census tracts are included.

Bolivar County	Carroll County
Coahoma County	Grenada County
Holmes County	Humphreys County
Issaquena County	Leflore County
Panola County	Quitman County
Sharkey County	Sunflower County
Tallahatchie County	Tate County
Tunica County	Washington County
Yazoo County	Warren County
Desoto County	

²⁴⁰ CLIMATE & ECON. JUSTICE SCREENING TOOL, <https://screeningtool.geoplatform.gov/en/#5.73/26.014/-100.845>.

II. How Might Justice40 Help the Mississippi Delta Region?

Several Justice40-designated programs (outlined below) may award funds for drinking water and wastewater infrastructure projects. Because Justice40 restructures *existing* programs, applicants seeking to benefit disadvantaged communities need not apply separately for Justice40 funding. Rather, they should apply for Justice40-designated programs as they typically might, and their status as disadvantaged communities will make their application more competitive than it otherwise might have been. The remainder of this section provides an overview of programs receiving Justice40 treatment.

Water & Waste Disposal Loan & Grant Program

Where to apply: *U.S. Department of Agriculture, Rural Development*

USDA Rural Development's Water & Waste Disposal Loan and Grant Program (WWDLGP) provides low-income communities, which face significant health risks, access to funding to ensure safe, reliable drinking water and waste disposal facilities and services.²⁴¹

The program is structured as a revolving loan fund. The following entities – located in eligible areas – may apply: (1) most state and local governmental entities, (2) private nonprofits, and (3) federally-recognized tribes.²⁴² Eligible areas include (1) rural areas and towns with populations of 10,000 or less, (2) tribal lands in rural areas, and (3) colonias. Applications may be submitted year-round at RD Apply²⁴³ or through a local RD office.²⁴⁴

Rural Development has produced a fact sheet to help prospective applicants understand and navigate the program.²⁴⁵ The division has also produced a customer user guide to help applicants navigate RD Apply.²⁴⁶

Prospective applicants should contact their local Rural Development representative for more information. For Mississippi, this is Bettye Oliver, Program Director of USDA Rural Development's Community and Water Programs Division, who may be contacted by phone at 601-965-5460 or by fax at 1-844-325-7034. Participating nonprofits may also offer assistance and training.

²⁴¹ *Water & Waste Disposal Loan & Grant Program in Mississippi*, U.S. DEP'T AGRICULTURE RURAL DEVELOPMENT, <https://www.rd.usda.gov/programs-services/water-environmental-programs/water-waste-disposal-loan-grant-program/ms> (last visited May 10, 2023).

²⁴² *Id.*

²⁴³ *What is RDApply?*, U.S. DEP'T OF AGRIC., <https://www.rd.usda.gov/programs-services/rd-apply>.

²⁴⁴ *State Offices*, U.S. DEP'T OF AGRIC., <https://www.rd.usda.gov/contact-us/state-offices>.

²⁴⁵ RURAL DEV., U.S. DEP'T OF AGRIC., WATER & WASTE DISPOSAL LOAN & GRANT PROGRAM (2019), https://www.rd.usda.gov/sites/default/files/fact-sheet/508_RD_FS_RUS_WEPDirect.pdf.

²⁴⁶ RURAL DEV., U.S. DEP'T OF AGRIC., RD APPLY – APPLICATION INTAKE, WATER & ENVIRONMENTAL CUSTOMER USER GUIDE (2018), https://www.rd.usda.gov/files/Water_and_Environmental_Customer_User_Guide.pdf.

Clean Water State Revolving Fund (CWSRF)

Where to Apply: *Mississippi Department of Environmental Quality*²⁴⁷

The CWSRF (at the state level called the Water Pollution Control Revolving Loan Fund (WPCRLF)) program is a federal-state partnership that provides communities low-cost financing for a wide range of water quality infrastructure projects. Using a combination of federal and state funds, state CWSRF programs provide loans to eligible recipients to (1) construct municipal wastewater facilities, (2) control nonpoint sources of pollution, (3) build decentralized wastewater treatment systems, (4) create green infrastructure projects, (5) protect estuaries, and (6) fund other water quality projects.²⁴⁸

Most relevant to the Delta, the program provides assistance to any public, private, or nonprofit entity for the construction, repair, or replacement of wastewater treatment systems.²⁴⁹ The program is both federally and state funded. States match federal funds at a rate of 20%.²⁵⁰

Mississippi provides loans at a 0.8% interest rate, compounded monthly, for a 20-year term, or a 1.8% interest rate, compounded monthly, for a 30-year term.²⁵¹ Small or low-income communities may be eligible for principal forgiveness on their loans.²⁵²

Because CWSRF assistance is provided directly from state agencies, prospective applicants should contact the CWSRF program in their state for information on how to apply. The Mississippi Department of Environmental Quality, which administers the CWSRF in Mississippi, can be contacted by phone at (601) 961-5171.²⁵³

To access the state's revolving fund, municipalities and other eligible recipients in Mississippi must:

- Hire a consulting engineer registered in Mississippi
- Arrange a pre-planning conference with Department staff
- Submit a Ranking Form requesting placement on the Priority List
- Develop and submit a Facilities Plan by the deadline established each year

²⁴⁷ *Water Pollution Control (Clean Water) Revolving Loan Fund (WPCRLF) Program*, MISS. DEP'T ENV'T QUALITY, <https://www.mdeq.ms.gov/about-mdeq/grants-loans-and-trust-funds-available-through-mdeq/water-pollution-control-clean-water-revolving-loan-fund-wpcrlf-program/>.

²⁴⁸ WATER POLLUTION CONTROL REVOLVING LOAN FUND FY-2022 INTENDED USE PLAN, MISS. DEP'T ENV'T QUALITY 36–39 (2022), <https://www.mdeq.ms.gov/wp-content/uploads/2022/11/Final-FY2022-IUP.pdf>.

²⁴⁹ *Id.* at 6.

²⁵⁰ *Id.* at 45.

²⁵¹ *Id.* at 7.

²⁵² *Id.* at 32.

²⁵³ Other contact information can be found at <https://www.mdeq.ms.gov/about-mdeq/contact-mdeq/>.

The Mississippi Delta Project has produced a toolkit for local leaders with more information about how to apply,²⁵⁴ available on the organization's website: <https://clinics.law.harvard.edu/deltaproject/>.

Drinking Water Infrastructure Resilience and Sustainability Grant

Where to Apply: *U.S. Environmental Protection Agency*²⁵⁵

The Drinking Water Infrastructure Resilience and Sustainability Grant (DWIRSG) is a funding opportunity geared toward small, underserved, and disadvantaged public water systems.²⁵⁶

Eligible activities for funding include planning, design, construction, implementation, operation, or maintenance of a program or project that increases drinking water system resilience to natural hazards through:

- The conservation of water or the enhancement of water use efficiency;
- The modification or relocation of existing drinking water system infrastructure made, or that is at risk of being, significantly impaired by natural hazards, including risks to drinking water from flooding;
- The design or construction of desalination facilities to serve existing communities;
- The enhancement of water supply through the use of watershed management and source water protection;
- The enhancement of energy efficiency or the use and generation of renewable energy in the conveyance or treatment of drinking water; or
- The development and implementation of measures to increase the resilience of the eligible entity to natural hazards.²⁵⁷

Eligible entities included public water systems, water systems located in areas governed by a Native American Tribe, or state on behalf of an underserved community. Eligible entities must serve a community that (1) is underserved that, (2) under affordability criteria established by the State under section 1452(d)(3), is determined by the State to be a disadvantaged community (3) or has a population of less than 10,000 individuals.²⁵⁸

²⁵⁴ MISS. DELTA PROJECT, APPLYING FOR A WATER POLLUTION CONTROL REVOLVING LOAN FUND: TOOLKIT FOR LOCAL LEADERS (2022), https://clinics.law.harvard.edu/deltaproject/files/2022/09/WPCRLF-Toolkit_MDP_Sep.-2022.pdf.

²⁵⁵ As of May 2023 the announcement for the grant had not been published, but should be posted to:

<https://www.epa.gov/dwcapacity/water-infrastructure-improvements-nation-act-wiin-act-grant-programs>.

²⁵⁶ *Drinking Water Infrastructure Resilience and Sustainability Grant*, ENV'T PROT. AGENCY, https://www.epa.gov/system/files/documents/2023-03/Factsheet_Statute%20Description%20and%20Tools%20for%20Infra%20Resilience%20and%20Sustainability%20Grant%20_Dec%202022.pdf.

²⁵⁷ *Id.*

²⁵⁸ *Id.*

Drinking Water State Revolving Fund (DWSRF)

Where to Apply: *Mississippi Department of Health*²⁵⁹

Under the DWSRF, EPA provides grants to all 50 states plus Puerto Rico to capitalize state DWSRF loan programs.²⁶⁰ The states contribute an additional 20 percent to match the federal grants. The program also provides direct grant funding for the District of Columbia, U.S. Virgin Islands, American Samoa, Guam, and the Commonwealth of Northern Marianas.²⁶¹

The 51 DWSRF programs function like infrastructure banks by providing low interest loans to eligible recipients for drinking water infrastructure projects. As money is paid back into the state's revolving loan fund, the state makes new loans to other recipients. These recycled repayments of loan principal and interest earnings allow the state's DWSRF to “revolve” over time.

States are responsible for the operation of their DWSRF programs. For Mississippi, the program is administered by the state department of health, and is called the Drinking Water Systems Improvements Revolving Loan Fund (DWSIRLF).

Six categories of projects are eligible to receive DWSRF assistance:

- **Treatment:** Projects to install or upgrade facilities to improve drinking water quality to comply with SDWA regulations.
- **Transmission and distribution:** Rehabilitation, replacement, or installation of pipes to improve water pressure to safe levels or to prevent contamination caused by leaky or broken pipes.
- **Source:** Rehabilitation of wells or development of eligible sources to replace contaminated sources.
- **Storage:** Installation or upgrade of finished water storage tanks to prevent microbiological contamination from entering the distribution system.
- **Consolidation:** Interconnecting two or more water systems.
- **Creation of new systems:** Construct a new system to serve homes with contaminated individual wells or consolidate existing systems into a new regional water system.²⁶²

²⁵⁹ *State Drinking Water Revolving Loan Fund*, MISS. DEP'T OF HEALTH, http://www.healthys.com/msdhsite/_static/44.0.127.html.

²⁶⁰ *Drinking Water State Revolving Fund (DWSRF)*, ENV'T PROT. AGENCY (Apr. 4, 2023), <https://www.epa.gov/dwsrf>.

²⁶¹ *How the Drinking Water State Revolving Fund Works*, ENV'T PROT. AGENCY (Dec. 7, 2022), <https://www.epa.gov/dwsrf/how-drinking-water-state-revolving-fund-works#tab-1>.

²⁶² MISS. DEP'T OF HEALTH, DRINKING WATER SYSTEMS IMPROVEMENTS REVOLVING FUND FFY-2023 INTENDED USE PLAN 18–20 (2023), <https://msdh.ms.gov/page/resources/19617.pdf>.

Mississippi provides loans at an 1.95% interest rate, compounded monthly, with a maximum repayment period of 30 years (or 40 years for disadvantaged communities).²⁶³ States may customize loan terms to meet the needs of small and disadvantaged communities or to provide incentives for certain types of projects. Beyond an extended repayment period, Mississippi offers principal forgiveness to disadvantaged communities.²⁶⁴

Mississippi provides loans to public, tax-exempt entities that are authorized under state law to operate drinking water systems.²⁶⁵ Prospective applicants can receive information about how to apply by contacting the Mississippi state representative for the program, Lee Alford, by phone at (601) 576-7518 or by email at bobby.alford@msdh.ms.gov.

The Mississippi Delta Project has produced a toolkit for local leaders with more information about how to apply,²⁶⁶ available on the organization's website: <https://clinics.law.harvard.edu/deltaproject/>.

²⁶³ *Id.* at 10.

²⁶⁴ *Id.* at 16.

²⁶⁵ *Id.* at 10.

²⁶⁶ MISS. DELTA PROJECT, APPLYING FOR THE DRINKING WATER SYSTEMS IMPROVEMENT REVOLVING LOAN FUND: TOOLKIT FOR LOCAL LEADERS (2022), https://clinics.law.harvard.edu/deltaproject/files/2022/09/DWSIRLF-Toolkit_MDP_Sep.-2022.pdf.