



Minnesota

Drinking Water State Revolving Fund Toolkit

Fiscal Year 2023 (July 1, 2022 to June 30, 2023)

This toolkit is a resource to quickly reference four key aspects of the state's current Drinking Water State Revolving Fund, known as the **Drinking Water Revolving Fund**, which was authorized under the Safe Drinking Water Act (SDWA). A regularly updated compilation, it includes the policies, regulations, and laws that define the state's [application process](#), [disadvantaged community definition](#), [scoring process](#), and [lead service line replacement program](#). Advocacy is especially needed on these highlighted topics to ensure that the application process is accessible to low-income and communities of color, and that funds are prioritized for those experiencing cumulative impacts of legacy pollution and disinvestment.

Abbreviations

Drinking Water Revolving Fund (DWRF)

Water Infrastructure Funding (WIF)

Public Facilities Authority (PFA)

Project Priority List (PPL)

Infrastructure Investment and Jobs Act (IIJA)

DWSRF Application Process¹

NOTE: The Minnesota DWSRF basic application process below also includes the Scoring Process.

Project Priority List (PPL)

Public Facilities Authority (PFA)

Drinking Water Revolving Fund (DWRF)

II. Project Funding

A. Project Priority List

The PPL prepared by the Minnesota Department of Health (MDH) identifies drinking water projects that are potentially eligible to receive DWRF financing over the next five years.



Projects are listed in priority order based on a point system established by the MDH in **Minnesota Rules** 4720 parts 4720.9015 to 4720.9040. (*See the **appendices** for the rules that specify the scoring criteria*)

MDH rules give funding priority to projects that:

- 1) protect public health
 - 2) provide adequate water supply and
 - 3) assist water systems most in need
- The 2023 PPL contains 675 projects with a total estimated cost of \$1.8 billion
 - The 2023 PPL ranks projects under the existing MDH rules

B. Placement on the IUP

For a project to be placed on the IUP, the PFA must receive a written request signed by an official of the municipality (city, township, county, or water district) or other public water system entity that will be the borrower for the loan.

The request must include a schedule indicating that the applicant expects the project to receive all necessary approvals and proceed to the point of receiving DWRf funding within approximately one year from the approval of the 2023 IUP

Eligibility for placement on the IUP does not guarantee a project will receive a DWRf loan

Minnesota has significant drinking water infrastructure needs and the PFA must balance loan demand and lending capacity by setting a fundable range for projects on the current IUP in order to also preserve lending capacity for future needs

A municipality with a project in the IUP fundable range must complete the loan application process with the PFA and receive project certification from the MDH before a DWRf loan can be approved

The approved IUP remains effective until the following year's IUP is approved.

A project listed in the IUP fundable range that does not receive a loan but submits a loan application to the PFA and is certified by the MDH by June 30, 2023 will be carried over in the fundable range on the next IUP.



Scoring Process²

NOTE: The Minnesota Scoring Process below also includes the basic DWSRF application process.

II. Project Funding

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- Project Priority List³
- Public Health Priority Points List⁴

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Disadvantaged Communities Definition⁵

G. Loan Terms and Conditions

- The standard loan term is 20 years and can be up to 30-years for projects that meet the **disadvantaged community** criteria described in Section I below.
- No loan term can exceed the useful life of the project.

H. Additional Subsidization

- The federal capitalization grants require a certain percent of the funds be used for additional subsidization of projects beyond the below market interest rates offered to Minnesota communities
- The chart below identifies the amount of the capitalization grants for each category
- It shows the percentage and amount for additional subsidization
- Includes amounts available from prior years' grants and the use of the funds
- The Base program additional subsidization is a combination of the required amounts specified in the Safe Drinking Water Act (SDWA) and in congressional appropriations

EPA Cap Grant Type	Cap Grant	Additional Subsidization Percent	Amount of Additional Subsidization	Use of Additional Subsidization
Base Program (2020,2021) available			\$3,953,701	Projects in communities that meet disadvantaged community criteria
Base Program, 2022	\$10,697,000	26%	\$2,781,220	Projects in communities that meet disadvantaged community criteria
IIJA-Year 1 Supplemental	\$27,465,000	49%	\$13,457,850	Projects in communities that meet disadvantaged community criteria
IIJA- Year 1 Lead Service Line Replacement	\$43,276,000	49%	\$21,205,240	Projects replacing LSLs in communities that meet disadvantaged criteria
IIJA-Year 1 Emerging Contaminants DW	\$11,533,000	100%	\$11,533,000	Projects meeting defined emerging contaminants; 25% of funds to go to public water systems serving fewer than 25,000 OR to disadvantaged

				communities with emerging contaminate projects
IIJA-Year 1 Emerging Contaminants CW (transfer)	\$1,719,000	100%	\$1,719,000	Projects meeting defined emerging contaminants; 25% of funds to go to public water systems serving fewer than 25,000 OR to disadvantaged communities with emerging contaminate projects
Total	\$94,690,000		\$54,650,011	

I. Disadvantaged Communities

Minnesota has established its state-funded Water Infrastructure Funding (WIF) grant program in **Minnesota Statutes, Section 446A.072**, to help municipalities build projects to replace aging and obsolete water systems.

The methodology looks at the financial impact on municipal users if the municipality had to finance the project with only DWRf loan assistance. The financial criteria consider:

- Total system costs, including annual operation and maintenance costs
- Annual debt service for prior capital improvements
- Projected new debt service for the proposed project based on the maximum allowable loan term
- The cost impact on the average household:
 - Divide the total system costs by the number of residential users (measured by equivalent residential units) to determine the average cost per household

- If the average cost per household exceeds 1.2% of the service area’s median household income, the proposed project is considered to create significant hardship.

Minnesota uses the WIF affordability criteria to identify disadvantaged communities that are eligible for DWRP Principal Forgiveness and/or WIF grants.

- The amount of Principal Forgiveness or WIF funding is limited to 80 percent of the system costs over 1.2% of MHI, to a maximum of \$5,000,000 or \$20,000 per connection, not to exceed 80% of the total project cost.
- Disadvantaged community projects qualifying for Principal Forgiveness or WIF cannot be determined based solely on information provided in the IUP request.
- Additional project information must be submitted during the application phase:
 - Includes details on system users and system costs, debt service, and as-bid costs
 - These are necessary to calculate the cost impact to system users, and whether the project triggers the disadvantaged community criteria
- When funds are available, the PFA reserves WIF and Principal Forgiveness funds for eligible DWRP projects when they are certified by the MDH.
- Funds are reserved in an amount based on the cost estimate when the project is certified, or the as-bid cost, whichever is less.

Lead Service Line Replacement⁶

- **MDH has proposed rule revisions** that allow for Public Health Priority Points to be assigned for projects that remove lead service lines and for projects that address contaminants of emerging concern when concentrations exceed a health advisory level.
- **The proposed revisions are expected to be finalized soon and be effective for the 2024 PPL.**

Federal IIIA funds provide a significant new source of funding to address lead service lines, with 49% of the funds available as Principal Forgiveness for disadvantaged communities.

EPA requires recipients of LSLR funds to replace the entire lead service line, not just a portion, unless a portion has already been replaced or is concurrently being replaced with another funding source.

Given the serious public health risk and the unique nature of these projects, the PFA has reviewed its disadvantaged community definition for lead service line projects. Based on this review, **PFA will modify the disadvantaged community criteria and methodology for these projects as described below.**

- Because a significant portion of a drinking water service line is owned by the property owner, municipalities cannot use system revenues to pay the cost to replace the privately owned portion.
- To date, special assessments to each individual property owner have generally been the only way to pay the private portion of the lead service line replacement cost, resulting in the cost impact falling on each property owner rather than over a municipality's entire user base.
- This can result in significant costs to each property owner that may often be an affordability barrier to replacing the lead service line.

Since without IIJA funding the lead service line replacement costs would fall on each property owner, the PFA has determined it is appropriate to modify the disadvantaged community criteria to focus on the financial impact to the property owner rather than the municipality as a whole.

- For lead service line replacement projects, PFA will determine what the estimated annual cost would be for each property, if the replacement of the private portion were financed through a special assessment on the property over ten years.
- PFA will then add the average cost per household for water service (reflecting the operation and maintenance and debt service costs of the system) and compare the total to the municipality's median household income.
- If the result exceeds 1.2% the municipality will be considered a disadvantaged community and the lead service line replacement project will be eligible for principal forgiveness.

When a city applies for a LSLR project, the PFA will review the applicant's current water rates and estimated cost to replace the private portion of the lead service line and calculate the total cost impact on the property owner.

- If the costs are over 1.2% of the median household income, the applicant's community is identified as a disadvantaged community and eligible for federal principal forgiveness for the private portion of the lead service line.

- If the costs are below the 1.2% MHI threshold, the PFA will discuss with the city targeting the LSLR project to specific census tracts and then using the census tract MHI to determine disadvantaged communities within the municipality that are above the 1.2% MHI threshold.

The PFA's goal is to target Principal Forgiveness grant funds so that the replacement of the private portion of the lead service line can be done at no cost to the property owner.

- To that end, the PFA financing agreements for LSLR projects will include a provision to prohibit assessing property owners for any costs of the privately-owned portion of the project.
- Principal forgiveness for LSLR projects will be available for projects that have partial or full private ownership of the line.
- Public side costs of LSLR projects will be funded with an IIJA-Year 1 LSLR DWRP loan.

Current state statutes authorize Principal Forgiveness for 50% of the project costs up to a maximum of \$250,000 for projects to replace the privately owned portion of drinking water lead service line.

- **Proposed language was introduced but not enacted during the 2022 Legislative Session** to remove Principal Forgiveness funding caps and allow zero interest loans for the public portion of lead service line replacement projects.
- These changes are essential to fully utilize the IIJA Lead Service Line funding.
- Statutory language changes will be proposed again for the 2023 legislative session.

References

- 1 Minnesota Public Facilities Authority. (2022, Dec 16). Drinking Water Revolving Fund 2023 Intended Use Plan, p. 2-3.
https://mn.gov/deed/assets/2023-dw-iup_tcm1045-553806.pdf
- 2 *ibid.*
- 3 Minnesota Rules, part 4720.9015 ; MINN. R. 4720.9015 (2003).
<https://www.revisor.mn.gov/rules/4720.9015/>
- 4 Minnesota Rules, part 4720.9020 ; MINN. R. 4720.9020 (2003).
<https://www.revisor.mn.gov/rules/4720.9020/>
- 5 Minnesota Public Facilities Authority. (2022, Dec 16). Drinking Water Revolving Fund 2023 Intended Use Plan, p. 5-7.
https://mn.gov/deed/assets/2023-dw-iup_tcm1045-553806.pdf
- 6 *ibid*, p. 2, 8-9.

Appendix A

4720.9015 PROJECT PRIORITY LIST.

Subpart 1. **General.** The commissioner must develop and maintain a project priority list for entities that have a need for a new or upgraded water supply system.

Subp. 2. **Notice.** At least once a year, the commissioner must provide notification to all eligible public drinking water suppliers that requests for placement on the project priority list are being accepted. The notice must include the schedule for submittal of the requirements listed in subparts 4 and 5, or subpart 6, in order to be placed on the project priority list.

Subp. 3. **Project priority list amendments.** As needed, but at least once per year, the commissioner must amend the project priority list to add or delete projects.

Subp. 4. **General requirements.** To be eligible for placement on the project priority list, a written request for placement on the project priority list must be submitted to the commissioner. The request must include:

- A. the type of project (planning, design, or construction) for which financial assistance is being requested;
- B. a current cost estimate and, if different, the amount of financial assistance being requested; and
- C. a proposed project schedule in a form acceptable to the commissioner.

Subp. 5. **Additional requirements for applicants seeking financial assistance for planning activities and design.** The request for inclusion of a project under the planning or design section of the project priority list must include:

- A. a description of the need for the project;
- B. an estimate of the population and number of households to be served; and
- C. a map showing the geographical area the project is expected to serve.

Subp. 6. **Additional requirements for applicants seeking financial assistance for construction.** The request for listing a construction project on the project priority list under this part must include:

- A. a map of the geographical area;
- B. the population and number of households to be served;
- C. a description of the current drinking water supply system;

- D. a discussion of any existing and potential problems or failures in the current drinking water system;
- E. an analysis of possible alternatives for the correction of the problems or failures, including a cost estimate for each alternative;
- F. the selection of an alternative, including the reasons for the selection of this alternative and a detailed cost estimate; and
- G. for public water suppliers serving more than 1,000 persons, the status of the applicant's implementation of an approved emergency and water conservation plan required under Minnesota Statutes, section [103G.291](#).

Subp. 7. **Priority points.** A project must be assigned project priority points before being listed on the project priority list. The commissioner must review and approve the information submitted under subpart 4, 5, or 6 before assigning project priority points. Approval must be based on the determination that the information addresses the requirements under subpart 4, 5, or 6 and an evaluation that the selected alternative will provide a solution to the problems presented. A project's priority points must be the total number of priority points assigned under parts [4720.9020](#) to [4720.9040](#). The project priority points may be recalculated when new information becomes available until the project is placed on the intended use plan as provided in part [7380.0255](#).

Subp. 8. **Listing order.** Projects must be listed on the project priority list in descending order according to the number of total priority points assigned to each one. When two or more projects have the same priority point total, the project sponsored by the entity with the lowest median household income must receive the highest priority.

Statutory Authority: *MS s* [446A.081](#)

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Appendix B

4720.9020 PUBLIC HEALTH PRIORITY POINTS.

Subpart 1. **Existing eligible public drinking water supply.** Only existing eligible public drinking water supply projects can be assigned priority points under subparts 2 to 4.

Subp. 2. **Acute violations.** A maximum of 100 priority points may be assigned to a project as described in items A to E.

- A. Twenty-five priority points must be assigned if there have been one or more violations defined as an acute violation in Code of Federal Regulations, title 40, section 141.32(a)(1)(iii)(A), within the past 36 calendar months.
- B. Twenty-five priority points must be assigned if there have been one or more violations defined as an acute violation in Code of Federal Regulations, title 40, section 141.32(a)(1)(iii)(B), within the past 36 calendar months.
- C. Twenty-five priority points must be assigned if there have been one or more occurrences defined as a waterborne disease outbreak in Code of Federal Regulations, title 40, section 141.2, within the past 36 calendar months.
- D. Twenty-five priority points must be assigned if there have been one or more violations of the maximum contaminant level for total coliforms pursuant to Code of Federal Regulations, title 40, section 141.32(a)(1)(iii)(C), when total coliforms are determined to be present in the wells of a groundwater system or at the point of entry for a surface water system within the past 36 calendar months.
- E. Fifteen priority points must be assigned if there have been one or more violations of the maximum contaminant level for total coliforms pursuant to Code of Federal Regulations, title 40, section 141.32(a)(1)(iii)(C), when total coliforms are determined to be present in a part of the system other than the wells of a groundwater system or at the point of entry for a surface water system within the past 36 calendar months. Points may not be assigned under this item if points have been assigned under item D.

Subp. 3. **Failure to comply with treatment technique requirements.**

- A. Fifteen priority points must be assigned if there have been one or more failures to comply with a treatment technique requirement pursuant to Code of Federal Regulations, title 40, sections [141.70](#) to [141.74](#).



- B. Thirteen priority points must be assigned if there have been one or more failures to comply with a treatment technique requirement, other than those referred to in item A, within the past 36 calendar months. Additional points must not be assigned for multiple failures to comply with the same requirement.

Subp. 4. **Violations of nonacute primary maximum contaminant levels.** Fifteen priority points must be assigned if there has been a violation of any nonacute primary maximum contaminant levels within the past 36 calendar months.

Subp. 5. **Contaminated private wells.** Only projects that will result in the creation of an eligible public water supply or connection to an eligible public water supply may be assigned points under this subpart. More than 50 percent of the private wells in the proposed project service area must meet a criterion in item A or B for priority points to be assigned under item A or B. If 50 percent or less of the private wells in the proposed project service area meet a criterion, one-half of the listed points must be assigned. Results of tests, done in accordance with the United States Environmental Protection Agency approved analytical methods, must be submitted.

- A. Twenty-five priority points must be assigned if test results indicate that a condition exists that meets the criteria in subpart 2, item A, B, C, or D.
- B. Ten priority points must be assigned if a drinking water advisory has been issued by the Minnesota Department of Health.

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