

Pennsylvania

Drinking Water State Revolving Fund Toolkit

Fiscal Year 2022-2023

This toolkit is a resource to quickly reference four key aspects of the state's current Drinking Water State Revolving Fund (DWSRF), which was authorized under the Safe Drinking Water Act (SDWA). A regularly updated compilation, this toolkit includes the policies, regulations, and laws that define the state's [application processes](#), [disadvantaged community definition](#), [scoring criteria](#), 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

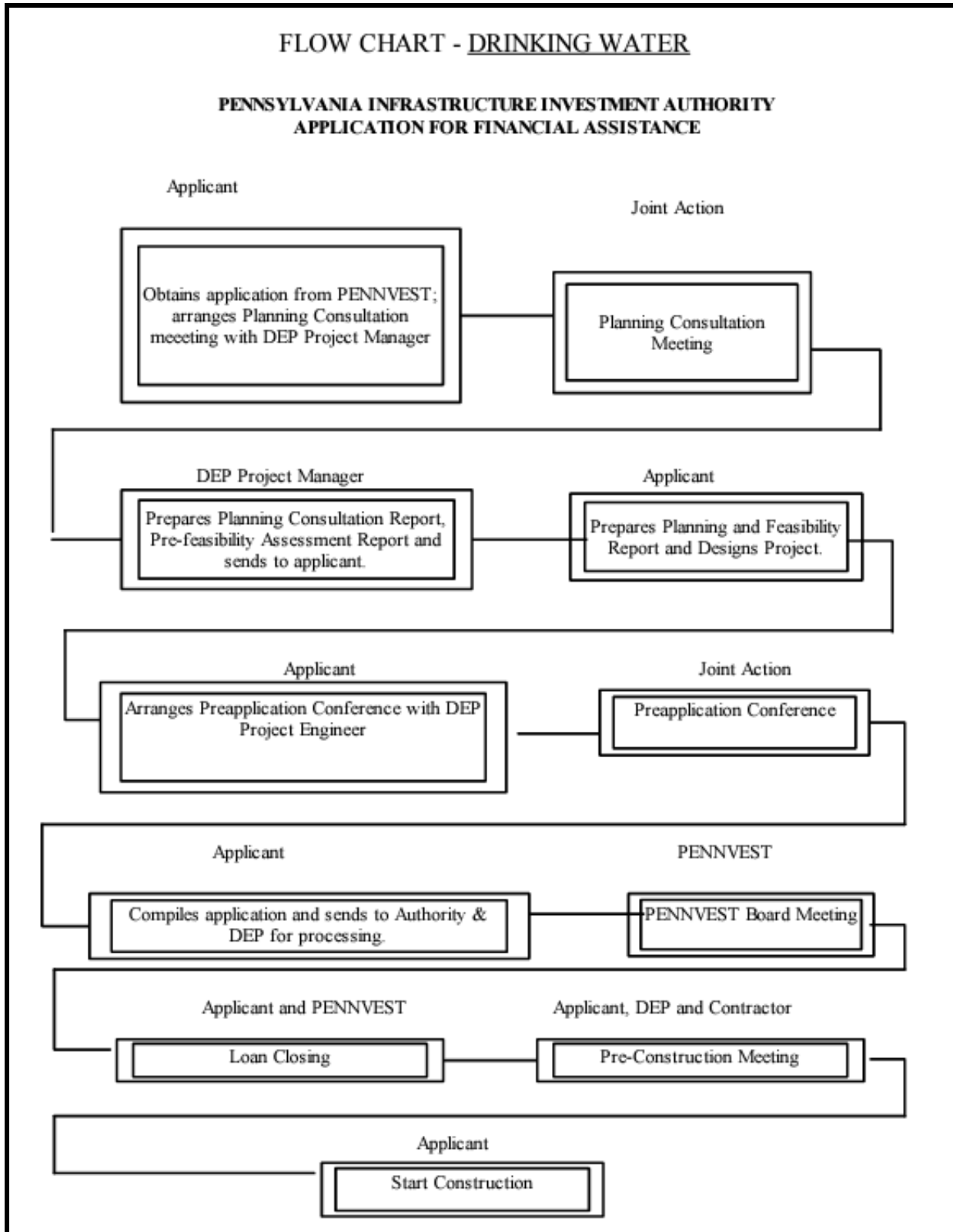
- Drinking Water State Revolving Fund (DWSRF)
- Department of Environmental Protection (DEP)
- Pennsylvania Infrastructure Investment Authority (PENNVEST)
- Capability Enhancement Facilitators (CEF)
- Intended Use Plan (IUP)

DWSRF Application Process¹

The federal EPA DWSRF is administered jointly with the PA Department of Environmental Protection. The program provides a resource for financing various public drinking water systems, including systems owned by for-profit entities and not-for-profit entities.

- The DWSRF program offers low interest loans with flexible terms to assist a variety of borrowers for construction, expansion, and maintenance of drinking water facilities (treatment plants, distribution mains, storage facilities), and improvements and upgrades to water quality systems.
- The EPA provides federal oversight of the national EPA DWSRF program in all 50 states and Puerto Rico under the laws, regulations and policy of the program.

See the **Flow Chart** below from Pennsylvania Infrastructure Investment Authority Application for Financial Assistance.²



Disadvantaged Community Definition³

The 1996 amendments to the federal Safe Drinking Water Act require all states to implement a Capacity Development Program, also known as the Capability Enhancement Program (CEP) in Pennsylvania.

- The CEP is designed to address the lack of technical, managerial and financial (TMF) abilities of the state's 8,193 public drinking water systems.
- At the request of qualifying systems, the CEP uses facilitators [Capability Enhancement Facilitators (CEF)] in conjunction with peer-based trainers to assist water systems in improving TMF capability and maximizing public health protection.

Additional Subsidies⁴

- Pennsylvania has a very large number of very small systems that may not have the necessary resources upfront to go through requirements to apply for financial assistance from the DWSRF.
- Recognizing the importance of this funding to these small systems, Pennsylvania will continue the following outreach activities to further market the DWSRF program and assist small systems with the application requirements for DWSRF funding:

1. The CEFs will continue to implement the Professional Engineering Services Program, funded by the 2% - Technical Assistance to Small Systems DWSRF set-aside.

- This will provide small systems with the necessary engineering, project design, permitting, and PENNVEST application development expertise needed to address infrastructure improvements needed at the system.

2. The CEFs will attend the PENNVEST planning consultation meetings for DWSRF funding.

- These meetings are the first step in the development of a project for DWSRF funding.
- Using the TMF Assessment protocols in Attachment 2 of the IUP, these facilitators can aid small systems.
- They can determine whether systems meet the eligibility requirements for TMF capability, prior to the system applying for DWSRF funding.
- They will also assist systems with addressing their capability weaknesses so that they may become eligible for DWSRF funding.

- However, the water system will need to obtain the services of a consulting engineer or DEP's Professional Engineering Services program, to assist with the development of the application.

3. DEP's Outreach Assistance Provider Program will help small water systems address their capability weaknesses, so they can meet the federal requirements and eligibility criteria for DWSRF funding (Attachment 2 of the IUP).

4. PENNVEST and DEP will collaborate with water industry associations to inform the regulated community about funding criteria for **disadvantaged communities** and green projects through the development of workshops, newsletter articles, fact sheets, and webinars.

5. Pennsylvania will fund a third-party entity to implement outreach targeted to underserved and/or **environmental justice areas**. This will aid in determination of public health or environmental problems, then help develop realistic paths to result in a resolution.

Financial Capability Analysis⁵

PENNVEST utilizes a financial capability analysis:

- This compares various community-specific demographic data to similarly situated communities across the Commonwealth
- The comparison determines a percent of the community's adjusted median household income (MHI) that should be available to pay for water service
- The amount that should be available to pay for water service by residential customers will range from 1%-2% of the community's adjusted MHI, dependent upon the specific socio-economic factors that are provided by the Pennsylvania Department of Community and Economic Development
- This process aids in an equitable distribution of residential user rates

Each applicant is evaluated against several demographic factors to measure the local economic circumstance of the community:

- MHI
- percentage of population over age 64
- percentage of population below poverty level

- rate of population changes in the community between Census data collection (2021 IUP)

Scoring Process⁶

Department of Community and Economic Development (DCED)

PROCESS FOR RATING SYSTEM REVISIONS

This ranking system is included as an attachment to the DWSRF IUP as part of the capitalization grant application for federal funding.

- As part of the IUP, this ranking system is available for public review and comment and is posted on the DEP website
- Before any revisions can be made to this ranking system, it must be reviewed and approved by the U.S. Environmental Protection Agency (EPA) and the PENNVEST Board before implementation, to ensure consistency with federal and state requirements

PROJECT SELECTION PROCESS

- DEP ratings are developed for each project after all the permits necessary for the project have been issued
- All ratings are based on the project's ability to address the problem(s) identified by the rating factors
- DEP program staff meets to discuss each project and comes to a consensus on the score
- **Federally-funded projects are awarded based on the DEP priority points plus up to 20 points assigned by PENNVEST for affordability**
- **State-funded projects are selected based on DEP's priority points, the PENNVEST affordability points, plus other points assigned by PENNVEST**
- One month before each Board meeting DEP submits a final list of recommended projects and scores to PENNVEST; the PENNVEST Board selects projects for funding.

DEP PRIORITY RATING FACTORS

(a) The maximum points for each factor are:

- (1) Public Health – 30 points
- (2) Compliance – 30 points
- (3) Community Health – 15 points
- (4) Source Water Protection – 5 points
- (5) Infrastructure Health – 25 points

(b) A project's total priority points are the sum of the points assigned in each of the individual rating factors. Total possible points from DEP are 105.

PENNVEST AFFORDABILITY RATING

PENNVEST provides the affordability portion of the rating by comparing what the project would cost without funding to the target user rate for the applicant. That ratio is presented in the form of a percentage, resulting in up to 20 points according to the following scale:

- (1) 200% and greater 20 points
- (2) 176% but less than 200% 16 points
- (3) 151% to 175% 12 points
- (4) 126% to 150% 8 points
- (5) 100% to 125% 4 points
- (6) Less than 100% 0 points

PENNVEST ADDITIONAL RATING FACTORS

To develop a final score for each project, PENNVEST adds the following points to the project scores DEP develops. The total points that can be added to DEP's rating for each project are 70 points.

(a) Economic Development – The Department of Community and Economic Development (DCED) provides this ranking based on:

- (1) High (20 points) – The project has a direct link to job creation or preservation and private investment.
- (2) Medium (15 points) – An indirect link to job creation or preservation and private investment exists.
- (3) Low (5 points) – Project implementation.

(b) **Distressed Community** – DCED evaluates communities across the Commonwealth for financial well-being

- Communities on the Distressed Communities list are identified in order to have access for consideration for assistance from various state agencies, in order to get the communities back to normal status.
- **If the project is in a community that is considered distressed, 10 points are added to the project.**

(c) Infill – PENNVEST adds 10 points to those projects that serve a city, borough or township of the first class. Redevelopment of existing population centers is a priority.

(d) Brownfield – PENNVEST adds 15 points to those projects that serve a designated Brownfield site as identified by DEP.

(e) Community Action Team (CAT) Projects – DCED adds 10 points to those projects that are in a CAT community. The CAT community system is an effort to focus financial and technical resources to specific communities identified by the CAT Team. Members of the CAT Team include DCED, DEP, the Pennsylvania Department of Transportation, the Public Utility Commission and other local and state agencies.

(f) Comprehensive Planning – DCED adds 5 points to those projects that are within communities with a comprehensive plan, where the community plan is consistent with the adopted county comprehensive plan.

NOTE: The attachment goes on to identify specific points for the 5 rating factors noted above, PAGES 3 – 12.

Assurance of Recipient Capability⁷

All DWSRF applicants will be evaluated for compliance with technical, managerial, and financial capability requirements.

- Applicants considered to lack capability will be evaluated for anticipated capability as a result of DWSRF assistance
- Before a project is recommended for funding, one of three DEP CEFs will complete an assessment of the system's technical and managerial capability, using the forms in Attachment 2 of the IUP
- PENNVEST will complete an analysis of the system's financial capability as part of the PACNIF financial assessment process.

The TMF Capability Assessment Process has the following steps:

1. The CEF will review the system's Capability Enhancement Program Priority Ranking Score (PRS) and EPA Enforcement Tracking Tool (ETT) scores to determine if an onsite evaluation is needed.

- Those systems with a PRS score ≥ 200 or an ETT score ≥ 11 will require an onsite TMF assessment
- If the onsite evaluation is not required, the CEF can complete the PENNVEST Capability Approval Sheet in Attachment 2 and the Technical and Managerial Capability Assessment is completed for the system
- The approval is valid for a period of 12 months from the date it was signed
- PENNVEST can then move forward with the Financial Capability Assessment as part of the usual PACNIF financial assessment process

2. Some of the systems will have a PRS score ≥ 200 or an ETT score ≥ 11 and will require an onsite TMF assessment. The following two documents will be needed to complete the onsite capability assessment:

a. TMF Self-Assessment Tool (*See next reference below*) - The applicant will complete this multiple choice TMF Self-Assessment and return the results to the CEF.

- The TMF Self-Assessment Tool is not a complete evaluation of all capability needs and is not a substitute for a complete onsite TMF assessment

- It does provide the CEF with information to help prepare them for the onsite TMF assessment
- The CEF will schedule the onsite TMF Assessment after the water supplier returns the results of the self-assessment

b. PENNVEST Capability Checklist - The CEF will use this checklist to document the system's technical and managerial capability weaknesses during the onsite assessment.

- If no technical or managerial capability weaknesses are found, the CEF will complete the PENNVEST Capability Approval Sheet in Attachment 2 and the Technical and Managerial Capability Assessment is completed for the system
- The approval is valid for a period of 12 months from the date it was signed
- PENNVEST can then move forward with the Financial Capability Assessment as part of the usual PACNIF financial assessment process. [Pennsylvania utilizes a financial capability analysis (PACNIF) to determine the financing offer to applicants⁸

3. If technical or managerial capability weaknesses are identified, the water supplier will be notified by email with a copy to appropriate DEP and PENNVEST program staff.

- The notification will include the PENNVEST Capability Checklist containing a narrative with details about the weakness
- The email will also offer DEP assistance through DEP's Operator Outreach Assistance Program, Professional Engineering Assistance Program, or the Capability Enhancement Program to resolve the identified weakness
- The CEF will follow-up with the water supplier by phone, to verify receipt of the email and discuss the system's next steps, and how the system would like to proceed, to resolve the weakness in a timely manner so that the project can move forward
- If the PENNVEST funded project is expected to address the capability weakness, the CEF will complete and sign the PENNVEST Capability Approval Sheet so the project can move forward
- A project will not be recommended for funding to the PENNVEST Board until this assessment is completed and approved

- Determination of compliance after DWSRF assistance will be accomplished through currently established procedures for routine evaluation of system performance (routine monitoring and sanitary surveys), in accordance with EPA guidance

Capability Enhancement TMF Assessment (Attachment 2)⁹

(scoring sheet pages 1 – 4)

A capability score is calculated based on a system's compliance history.

- Systems having a capability score of ≥ 200 have been identified as having capability weaknesses, based on their inability to consistently comply with safe drinking water regulations.
- The Department of Environmental Protection (Department) conducts onsite TMF capability assessments at these systems as part of their PENNVEST capability review.
- Capability weaknesses are root cause issues that prevent water systems from maintaining compliance or maintaining long term viability.
- The capability weaknesses marked with an "X" in column C were identified at the water system.
- These capability weaknesses are required to be addressed, prior to receiving DWSRF funding or as part of the DWSRF funded project.
- Note that all acute violations must be addressed immediately. A prompt response is requested in order to complete the PENNVEST capability review in a timely manner.

Lead Service Line Replacement Program

Lead Line Replacement¹⁰

In 2019, the Water Infrastructure Fund Transfer Act (WIFTA) was signed into law, allowing states to initiate a one-time transfer of funds from the Clean Water State Revolving Fund (CWSRF) to the Drinking Water State Revolving Fund (DWSRF) for lead remediation.

- PENNVEST’s transfer was the fourth highest in the nation, directly addressing some of Pennsylvania’s unique challenges with aging infrastructure.
- Since the establishment of the Lead Line Replacement program in 2020, communities from across the Commonwealth have received funding awards to address a wide array of lead contaminated systems, including the removal of thousands of goosenecks, lead piping systems, and lead-soldered joints.

Bipartisan Infrastructure Law (BIL) Lead Service Line Replacement Incentives¹¹

Due to the health risks associated with lead service lines and current lack of progress in attracting systems to the PENNVEST program, a modification to the affordability analysis associated with lead line replacement projects seeks to promote these projects in the neighborhoods that can least afford the cost to replace the necessary piping.

- As described above, in order to target limited grant funds for the neediest systems, PENNVEST looks at the impact the potential grant will have on the resulting residential user fees.
- This tends to eliminate the largest systems from grant consideration, as project costs can be shared by a greater number of households spreading the cost impact across the entire system.
 - However, the larger systems are also often those with the greatest lead service line replacement needs.
- For those systems with lead service line replacement needs that have adequately mapped and designated high need areas, and reach an action level under the Revised Lead and Copper Rule, PENNVEST could consider the rate impact on those specific areas or neighborhoods within the larger system, in lieu of overall system users.
 - This could provide a more realistic picture of the consequence of the capital improvement on the specific community impacted

- o It could also allow for these types of projects to be eligible for additional subsidy, thus expediting correction and addressing the public health and environmental hazard

In some cases, PENNVEST may offer only part of the funding that an applicant requests, particularly if there is a much greater demand for funding than can be met.

- This can occur when the resulting user rate is below the affordable rate.
- In such cases, typically 50% of the needed funding is offered, and the borrower is expected to obtain the other 50% from some other source (e.g., a bank or a bond issue).
- The resulting user rate that is calculated and compared with the affordable rate includes the debt service on this other borrowing.

The latest tool available to applicants is Loan Guaranty.

- In cases where the program can only offer partial or no direct loan funding, PENNVEST has the option of providing a loan guaranty.
- In these cases, the community/system would be able to take advantage of private sector borrowing to complete its funding package, using PENNVEST and its bond rating as security, reducing the overall cost of borrowing.

References

- 1 PENNVEST Drinking Water State Revolving Fund (DWSRF) website.
<https://www.pennvest.pa.gov/Information/Funding-Programs/Pages/Drinking-Water-State-Revolving-Fund.aspx>
- 2 Flow Chart for Application for Financial Assistance. PENNVEST.
https://www.pennvest.pa.gov/migration/Documents/flowchart_for_application_for_financial_assistance_-_drinking_water.pdf
- 3 Pennsylvania Department of Environmental Protection, Bureau of Safe Drinking Water. (2020, Sep). Governor's Report on the Capability Enhancement Program, p. 1.
https://files.dep.state.pa.us/Water/BSDW/CapabilityEnhancementProgram/Governor%27s_Report_2020_Final.pdf
- 4 Commonwealth of Pennsylvania. (2022, Aug). Drinking Water State Revolving Fund Intended Use Plan Associated with FFY2022 Federal Appropriations, p. 9.
https://files.dep.state.pa.us/Water/BNPNSM/InfrastructureFinance/StateRevolFundIntendUsePlan/2022/2022_DWSRF_IUP_Final_August_2022.pdf
- 5 U. S. EPA. (2022, Oct). DWSRF Disadvantaged Community Definitions: A Reference for States. EPA 810-R-22-002, p. 36.
https://www.epa.gov/system/files/documents/2022-10/DWSRF%20DAC%20Definitions%20Report_October%202022%20Updates_FINAL_508.pdf
- 6 Commonwealth of Pennsylvania. (2022, Aug). Drinking Water State Revolving Fund Intended Use Plan Associated with FFY2022 Federal Appropriations. Attachment 1, p. 1-3.
https://files.dep.state.pa.us/Water/BNPNSM/InfrastructureFinance/StateRevolFundIntendUsePlan/2022/2022_DWSRF_IUP_Attachment_1-Ranking_Framework_for_PENNST_Drinking_Water_Projects.pdf
- 7 Commonwealth of Pennsylvania. (2022, Aug). Drinking Water State Revolving Fund Intended Use Plan Associated with FFY2022 Federal Appropriations, p. 23-25.
https://files.dep.state.pa.us/Water/BNPNSM/InfrastructureFinance/StateRevolFundIntendUsePlan/2022/2022_DWSRF_IUP_Final_August_2022.pdf
- 8 Commonwealth of Pennsylvania. (2014). Drinking Water State Revolving Fund Intended Use Plan.
https://www.pennvest.pa.gov/migration/Documents/DW_IUP_2014_Final.pdf

- 9 Commonwealth of Pennsylvania. (2022, Aug). Drinking Water State Revolving Fund Intended Use Plan Associated with FFY2022 Federal Appropriations, Attachment 2 Capability Enhancement Program, Technical-Managerial-Financial (TMF) Capability Weaknesses, p. 1.
https://files.dep.state.pa.us/Water/BNPNSM/InfrastructureFinance/StateRevolFundIntendUsePlan/2022/2022_DWSRF_IUP_Attachment_2_Capability_Enhancement_TMF_Assessment_Documentation.pdf
- 10 PENNVEST. (2021). Investment Benchmark, p. 9.
<https://www.pennvest.pa.gov/SiteCollectionDocuments/10Billion%20Portfolio%20Book.pdf>
- 11 Commonwealth of Pennsylvania. (2022, Aug). Drinking Water State Revolving Fund Intended Use Plan Associated with FFY2022 Federal Appropriations, p.16-17.
https://files.dep.state.pa.us/Water/BNPNSM/InfrastructureFinance/StateRevolFundIntendUsePlan/2022/2022_DWSRF_IUP_Final_August_2022.pdf