



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

November 18, 2022

MEMORANDUM

SUBJECT: Amendments to the Sewer Overflow and Stormwater Reuse Municipal Grants Program and Allocation of Federal Fiscal Year 2022 Funding

FROM: Radhika Fox
Assistant Administrator

A handwritten signature in black ink, appearing to be "R. Fox", written over a horizontal line.

TO: EPA Regional Water Division Directors, Regions 1-10

President Biden signed the Infrastructure Investment and Jobs Act, Public Law No: 117-58, also known as the Bipartisan Infrastructure Law (BIL), into law on November 15, 2021. Amendments in this law apply to the Sewer Overflow and Stormwater Reuse Municipal Grants Program (OSG) [33 U.S.C §1301](#) and apply to all obligations made after BIL became law. This memorandum outlines the amendments made to the OSG program and should be referenced in conjunction with the [OSG Implementation Document](#) dated March 2021. This document supersedes the prior implementation document only to the extent that it conflicts with the March 2021 document. This memorandum also provides allotments to the EPA regions for fiscal year (FY) 2022 (see appendix A). The BIL made the following statutory changes to the OSG program:

Additional Eligible Activity: Notification systems that inform the public of combined sewer or sanitary overflows that result in sewage being released into rivers and other waters are now eligible.

Non-Federal Cost Share Requirements: States are required, per 33 U.S.C §1301(c)(1), to develop criteria to determine if a community is financially distressed. EPA will work with states, the District of Columbia, and territories, to the extent practicable, to prevent the non-Federal cost share requirements of the OSG program from being passed on to sub-recipients that are rural communities (population of 10,000 or less) and/or are considered financially distressed communities. EPA encourages states to utilize this opportunity to reevaluate their affordability criteria for determining a financially distressed community in line with the recommendations on page 41 in the March 8, 2022, memorandum, [Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law](#).

Allocation to Rural or Financially Distressed Communities: States shall use, to the extent there are sufficient eligible project applications, at least 25 percent of their allotted funds to carry out projects in rural communities (population of 10,000 or less) or financially distressed communities as defined by the state. Of this 25 percent, EPA shall ensure that a state uses at least 60 percent of this amount to carry out projects in rural communities to the extent there are sufficient eligible project applications. This equates to a minimum of 15% of the total grant amount.

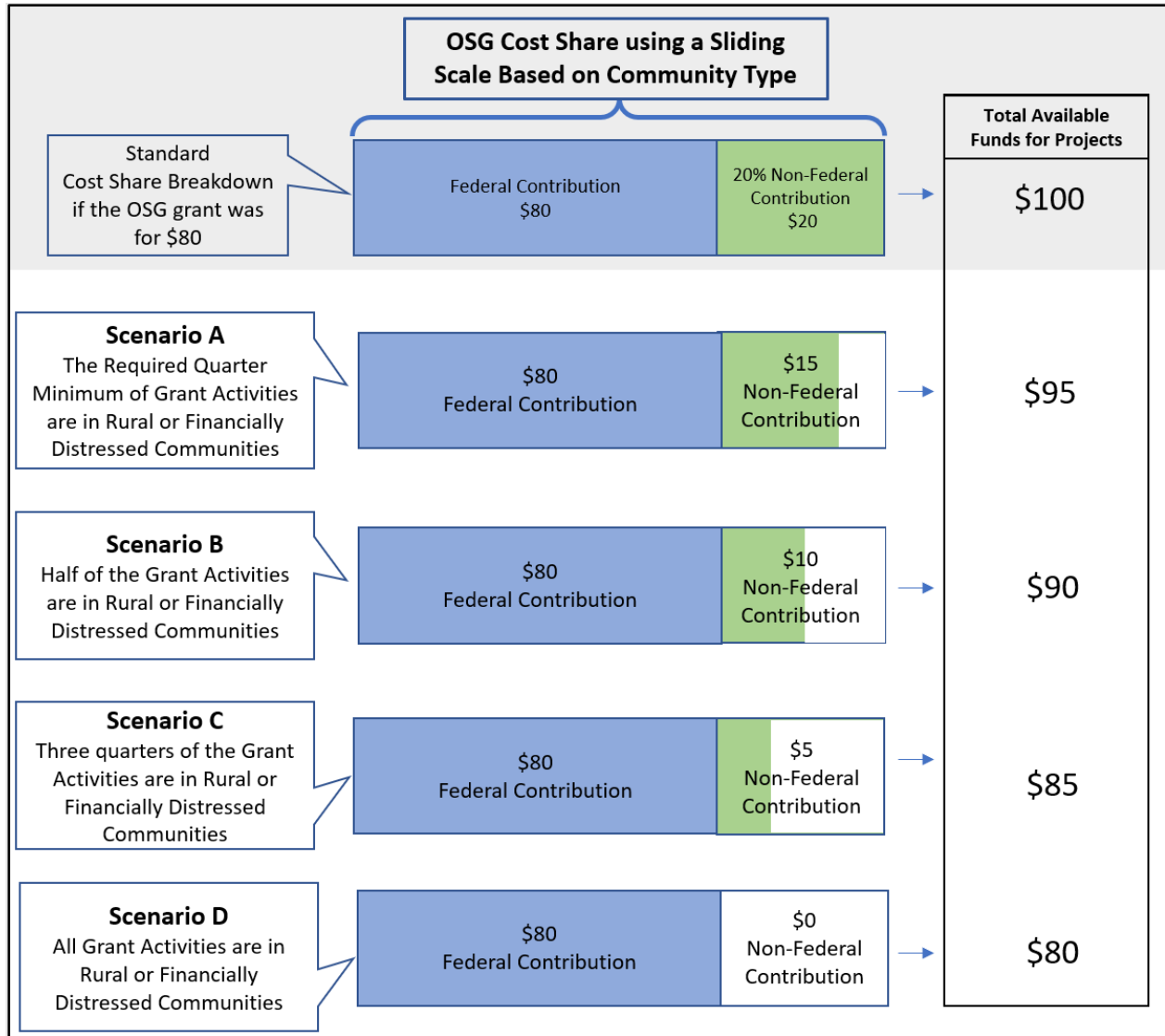
Build America, Buy America (BABA) Act: Procurement requirements for iron and steel, manufactured goods, and construction materials will apply to OSG infrastructure projects funded by grants obligated after May 15, 2022. BABA was enacted as part of the BIL at Sec. 70901 *et. seq.* BABA states that: “[N]one of the funds made available for a Federal financial assistance program for infrastructure...may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.” Project means any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States. This law applies to all Federal financial assistance as defined in section 2 CFR 200.1, whether funded through the BIL or not. EPA provides information and guidance on BABA compliance, implementation, and any applicable waivers and can be found at: www.epa.gov/cwsrf/build-america-buy-america-baba. Recipients are required to ensure that procurement plans comply with BABA requirements prior to grants being awarded.

As noted above, BIL amended the OSG authorizing statute to require EPA to work with the states to use at least 25 percent of the grant on projects located in rural communities (population of 10,000 or less) and/or a financially distressed communities as defined by the state and prevent the non-Federal cost share from being passed onto these communities. Currently, states have flexibility on how to provide the non-Federal cost share requirement; some states currently allow the cost share to pass to sub-recipients at the community level.

In response to Congress’ statutory direction, EPA will provide further flexibility on non-Federal cost share. EPA will allow a state to reduce their 20 percent cost share requirement to the extent to which the state provides sub-grants to fund OSG activities in rural or financially distressed communities. This added flexibility provides an alternative means of satisfying the cost share requirement and obviates the previous practice of a state passing their cost share to rural or financially distressed sub-recipients.

The cost share adjustment will be calculated on a sliding scale by reducing the 20 percent cost share portion by a percentage equal to the percentage of grant funds going to rural communities and/or financially distressed communities. If a state funds projects in rural or financially distressed communities at the required minimum amount of 25 percent or a quarter of their grant, then their 20 percent cost share would be reduced by a quarter to equal a cost share of 15 percent of the total grant activities. See figure 1 on next page for examples.

Figure 1: Examples of Cost Share Proportions



The following examples refer to the scenarios in figure 1.

- In scenario A, if the rural/financially distressed allocation requirement of 25 percent of the grant is applied, then the cost share of 20 percent gets reduced by a quarter to then become 15 percent and require a \$15 cost share in this scenario.
- In scenario B, if a state uses half of their OSG grant to fund projects located in rural or financially distressed communities, then the non-Federal cost share requirement would be reduced by half to mirror the state’s rural and financially distressed involvement. This means the 20 percent cost share of \$20 is reduced by half to now equal a \$10 non-Federal cost share requirement.
- Similarly, in scenario C, a state uses 75 percent of their grant to fund projects in rural communities or financially distressed communities. In turn, the state’s cost share is reduced by 75 percent to now have a cost share of \$5.

- In scenario D, a state uses all of their grant to fund projects in rural communities or financially distressed communities, and therefore their cost share amount is reduced by 100 percent to now equal zero dollars.

If you have questions concerning the contents of this memorandum or about the OSG program, you may contact OSG@epa.gov or visit www.epa.gov/cwsrf/sewer-overflow-and-stormwater-reuse-municipal-grants-program.

APPENDIX A: FY22 OSG Allotment Formula of Federal Fiscal Year 2022 Funding

| By Region | FY22 Allotment Amount | Allotment Percentage |
|----------------------|------------------------------|-----------------------------|
| | | |
| Region 1 | \$ 3,246,000 | |
| Connecticut | \$ 911,000 | 2.14% |
| Maine | \$ 252,000 | 0.59% |
| Massachusetts | \$ 1,097,000 | 2.58% |
| New Hampshire | \$ 400,000 | 0.94% |
| Rhode Island | \$ 373,000 | 0.88% |
| Vermont | \$ 213,000 | 0.50% |
| | | |
| Region 2 | \$ 5,676,000 | |
| New Jersey | \$ 2,429,000 | 5.71% |
| New York | \$ 2,708,000 | 6.36% |
| Puerto Rico | \$ 326,000 | 0.77% |
| Virgin Islands | \$ 213,000 | 0.50% |
| | | |
| Region 3 | \$ 4,809,000 | |
| Delaware | \$ 213,000 | 0.50% |
| District of Columbia | \$ 551,000 | 1.29% |
| Maryland | \$ 1,135,000 | 2.67% |
| Pennsylvania | \$ 1,480,000 | 3.48% |
| Virginia | \$ 897,000 | 2.11% |
| West Virginia | \$ 533,000 | 1.25% |
| | | |
| Region 4 | \$ 5,055,000 | |
| Alabama | \$ 435,000 | 1.02% |
| Florida | \$ 1,186,000 | 2.79% |
| Georgia | \$ 630,000 | 1.48% |
| Kentucky | \$ 900,000 | 2.11% |
| Mississippi | \$ 356,000 | 0.84% |
| North Carolina | \$ 563,000 | 1.32% |
| South Carolina | \$ 337,000 | 0.79% |
| Tennessee | \$ 648,000 | 1.52% |

| By Region | FY22 Allotment Amount | Allotment Percentage |
|-------------------|--------------------------------------|---------------------------------|
| | | |
| Region 5 | \$ 7,097,000 | |
| Illinois | \$ 1,116,000 | 2.62% |
| Indiana | \$ 1,299,000 | 3.05% |
| Michigan | \$ 646,000 | 1.52% |
| Minnesota | \$ 313,000 | 0.74% |
| Ohio | \$ 2,951,000 | 6.93% |
| Wisconsin | \$ 772,000 | 1.81% |
| | | |
| Region 6 | \$ 3,853,000 | |
| Arkansas | \$ 294,000 | 0.69% |
| Louisiana | \$ 614,000 | 1.44% |
| New Mexico | \$ 213,000 | 0.50% |
| Oklahoma | \$ 350,000 | 0.82% |
| Texas | \$ 2,382,000 | 5.60% |
| | | |
| Region 7 | \$ 3,035,000 | |
| Iowa | \$ 345,000 | 0.81% |
| Kansas | \$ 487,000 | 1.14% |
| Missouri | \$ 1,649,000 | 3.87% |
| Nebraska | \$ 554,000 | 1.30% |
| | | |
| Region 8 | \$ 1,511,000 | |
| Colorado | \$ 446,000 | 1.05% |
| Montana | \$ 213,000 | 0.50% |
| North Dakota | \$ 213,000 | 0.50% |
| South Dakota | \$ 213,000 | 0.50% |
| Utah | \$ 213,000 | 0.50% |
| Wyoming | \$ 213,000 | 0.50% |
| | | |
| Region 9 | \$ 6,430,000 | |
| American Samoa | \$ 399,000 | 0.94% |
| Arizona | \$ 352,000 | 0.83% |
| California | \$ 4,528,000 | 10.64% |
| Guam | \$ 335,000 | 0.79% |
| Hawaii | \$ 213,000 | 0.50% |
| Nevada | \$ 310,000 | 0.73% |
| Northern Marianas | \$ 293,000 | 0.69% |

| By Region | FY22 Allotment Amount | Allotment Percentage |
|------------------|------------------------------|-----------------------------|
| | | |
| Region 10 | \$ 1,858,000 | |
| Alaska | \$ 213,000 | 0.50% |
| Idaho | \$ 213,000 | 0.50% |
| Oregon | \$ 638,000 | 1.50% |
| Washington | \$ 794,000 | 1.87% |
| | | |
| Total | \$ 42,570,000 | 100.00% |

Methodology and Data Sources

After notice and comment, EPA adopted the following methodology to allocate funds appropriated for the program.

1. Reserve 1 percent of the federal appropriation for EPA’s administrative expenses per Clean Water Act (CWA) Section 221(h).

2. Allocate the remaining amount (federal appropriation minus EPA administrative set-aside) based on several factors to characterize the “need allocation” of each state. In addition to the most recent Clean Watershed Needs Survey (CWNS), EPA chose additional objective factors to help characterize the infrastructure needs of each state, as permitted by CWA Section 221(g)(2). These factors include total state population, urban population, and 10-year annual average precipitation. EPA assigned weights to each of the factors in the allocation formula. The CWNS needs are weighted at 50 percent and the additional factors were weighted evenly to collectively account for the remaining 50 percent. The combination of the following factors forms the need allocation for each state with data sources listed here:

- Clean Watersheds Needs Survey: The CWNS includes and documents identified capital investment needs for Sanitary Sewer Overflow (SSO) Correction (Categories I-IV where states have shown a designated SSO need), Combined Sewer Overflow Correction (Category V), and Stormwater Management (Category VI). Information for this factor comes from the most recent published CWNS¹.
- Annual Average Precipitation: The precipitation factor for each state is the annual average amount of precipitation collected from the past 10 years of data from the National Oceanographic and Atmospheric Association (NOAA) National Centers for Environmental Information, Climate at a Glance: Statewide Time Series. These data will be updated annually to

¹ *Clean Watersheds Need Survey 2012 Report to Congress*, January 2016. <https://www.epa.gov/cwns/clean-watersheds-needs-survey-cwns-2012-report-and-data>

form a 10-year rolling average.² Due to data limitations, alternative data sources are used for the following states:

- Hawaii: The past 10 years of data for annual average precipitation will be collected from the Hilo Area, Honolulu Area, Kahului Area, and Lihue Area from the Honolulu Forecast Office of NOAA.³ These sources constitute the most complete data set in the relevant timeframe and are considered the best available representation for Hawaii.
- District of Columbia: The past 10 years of data for annual average precipitation will be collected from the Washington Area from the Baltimore/Washington Forecast Office of NOAA. This is the most complete data set in the relevant timeframe and is considered the best available representation for the District of Columbia.⁴
- Puerto Rico: The past 10 years of data for annual average precipitation will be collected from the San Juan Area and Ensenada and Morovis weather stations from the San Juan Forecast Office of NOAA. These sources constitute the most complete data set in the relevant timeframe and are considered the best available representation for Puerto Rico.⁵
- American Samoa: The past 10 years of data for annual average precipitation will be collected from the Pago Pago Area from the Pago Pago Forecast Office of NOAA. This is the most complete data set in the relevant timeframe and is considered the best available representation for American Samoa.⁶
- Guam: The past 10 years of data for annual average precipitation will be collected from the Guam Area from the Tivan Forecast Office of NOAA. This is the most complete data set in the relevant timeframe and is considered the best available representation for Guam.⁷
- Northern Mariana Islands: The past 10 years of data for the annual average precipitation will be collected from the Guam Area from the Tivan Forecast Office of NOAA. There are no available weather stations in the Northern Mariana Islands. However, the Northern Mariana Islands are covered by the Tivan Forecast Office and Guam is located approximately 130 miles away. It has been determined that data from the Guam Area can be considered an acceptable surrogate for precipitation amounts in the Northern Mariana Islands.⁸
- U.S. Virgin Islands: The past 10 years of data for the annual average precipitation will be collected from the Christiansted Airport and St. Thomas weather stations from the San Juan Forecast Office of NOAA. These sources constitute the most complete data set in the relevant timeframe and are considered the best available representation for the U.S. Virgin Islands.⁹

² NOAA National Centers for Environmental information, Climate at a Glance: Statewide Time Series, accessed Sept. 2022, <https://www.ncdc.noaa.gov/cag/statewide/time-series>

³ NOAA, Honolulu Forecast Office, Hilo Area, Honolulu Area, Kahului Area, and Lihue Area Data, <https://w2.weather.gov/climate/xmacis.php?wfo=hnl>

⁴ NOAA, Baltimore/Washington Forecast Office, Washington Area Data, <https://w2.weather.gov/climate/xmacis.php?wfo=lwx>

⁵ NOAA, San Juan Forecast Office, San Juan Area and Ensenada, and Morovis Weather Station Data. <https://w2.weather.gov/climate/xmacis.php?wfo=sju>

⁶ NOAA, Pago Pago Forecast Office, Pago Pago Area Data, <https://w2.weather.gov/climate/xmacis.php?wfo=samoa>

⁷ NOAA, Tivan Forecast Office, Guam Area Data, <https://w2.weather.gov/climate/xmacis.php?wfo=guam>

⁸ Ibid.

⁹ NOAA, San Juan Forecast Office, Christiansted Airport and St. Thomas Weather Station Data, <https://w2.weather.gov/climate/xmacis.php?wfo=sju>

- Total Population: Data for the total population factor is obtained from the published U.S. Census Bureau decennial 2020 census.
 - The states, the District of Columbia, and Puerto Rico population data comes from the 2020 Census Resident Population for the 50 States, the District of Columbia, and Puerto Rico.¹⁰
 - American Samoa, Guam, Northern Mariana Islands, and U.S. Virgin Islands population data comes from the U.S. Census Bureau Island Area Tables.¹¹

- Urban Population: The urban population factor for each state will be based on the data from the 2010 U.S. Census Bureau decennial census as this is the most recent urban dataset available from the U.S. Census Bureau. Source data for the urban population factor can be found in the OSG formula Federal Register Notice.¹²

¹⁰ U.S. Census Bureau, Resident Population for the 50 States, the District of Columbia, and Puerto Rico: 2020 Census, [2020 Census Apportionment Results](#)

¹¹ U.S. Census Bureau, 2020 Island Areas Censuses, [2020 Census: Counting the Island Areas](#)

¹² U.S. Census Bureau, Census Urban and Rural Classification and Urban Area Criteria, [Federal Register :: State Formula Allocations for Sewer Overflow and Stormwater Reuse Grants](#)