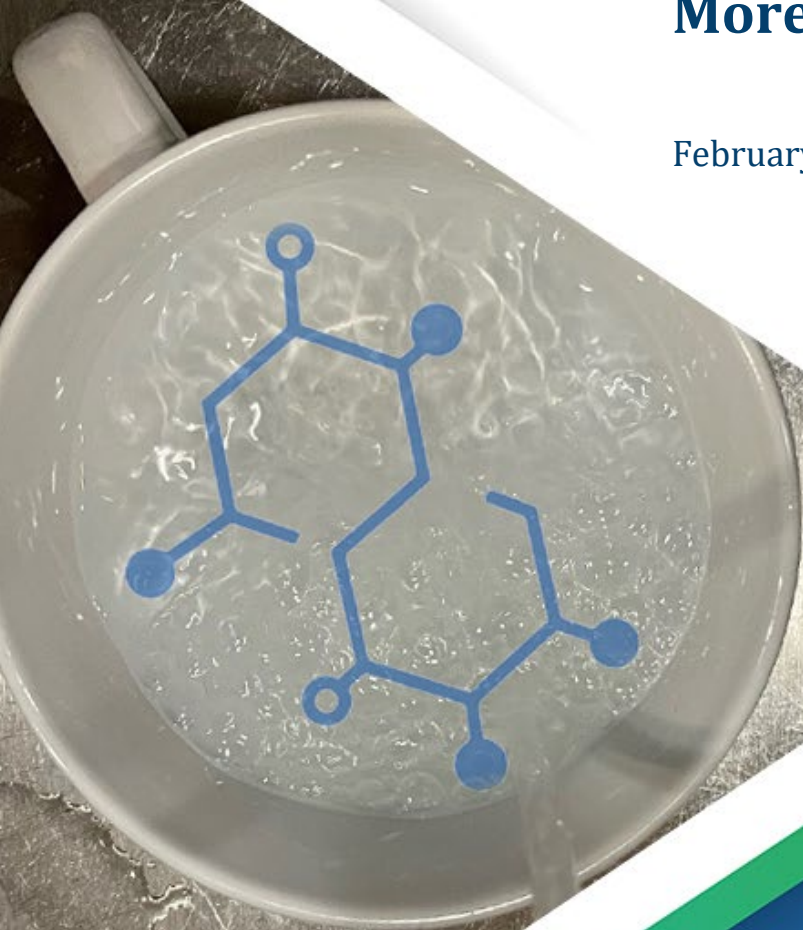


EPA Guidance Addresses Implementation Requirements for Infrastructure Investment and Jobs Act for Drinking Water State Revolving Fund Emerging Contaminants Funding, but Clarification Is Needed Before More States Spend Funds

February 12, 2025 | Report No. 25-P-0015



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Abbreviations

C.F.R.	Code of Federal Regulations
CWSRF	Clean Water State Revolving Fund
DWSRF	Drinking Water State Revolving Fund
EPA	U.S. Environmental Protection Agency
IIJA	Infrastructure Investment and Jobs Act
OIG	Office of Inspector General
PFAS	Per- and Polyfluoroalkyl Substances
Pub. L.	Public Law
SRF	State Revolving Fund
U.S.C.	United States Code

Key Definitions

Emerging Contaminants	Chemicals or materials listed on the EPA's Contaminant Candidate List that are known or anticipated to occur in public water systems and are characterized by a potential threat to human health.
PFAS	Chemical compounds that are part of a specific group of emerging contaminants that are used in consumer products.

Cover Image

Faucet water pouring into a drinking cup with PFAS emerging contaminant overlay. (EPA OIG image)

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At a Glance

EPA Guidance Addresses Implementation Requirements for Infrastructure Investment and Jobs Act for Drinking Water State Revolving Fund Emerging Contaminants Funding, but Clarification Is Needed Before More States Spend Funds

Why We Did This Audit

To accomplish this objective:

The U.S. Environmental Protection Agency Office of Inspector General conducted this audit to determine the extent to which the EPA provided state agency officials with guidance for the use of the Drinking Water State Revolving Fund for emerging contaminants, in accordance with Infrastructure Investment and Jobs Act requirements and related federal implementation guidance. The Act appropriates \$4 billion in supplemental appropriations to address emerging contaminants in drinking water through the Drinking Water State Revolving Fund.

In prior reports, the OIG identified that the EPA's implementation guidance for another supplemental appropriation, the American Recovery and Reinvestment Act, had challenges related to clarity and comprehensiveness. As such, we conducted this audit to build on those lessons learned and to help the EPA more effectively implement its Infrastructure Investment and Jobs Act funding.

To support this EPA mission-related effort:

- *Ensuring clean and safe water.*

Address inquiries to our public affairs office at (202) 566-2391 or OIG.PublicAffairs@epa.gov.

[List of OIG reports.](#)

What We Found

EPA guidance generally addresses Infrastructure Investment and Jobs Act, or IIJA, Drinking Water State Revolving Fund, or DWSRF, emerging contaminants provisions. These provisions include focusing on projects that address per- and polyfluoroalkyl substances, or PFAS. However, the EPA's guidance does not detail allowable ranking and funding levels of non-PFAS projects. PFAS are chemical compounds that are part of a specific group of emerging contaminants. The guidance is clear on what kinds of emerging contaminant projects may be funded, as it notes that state agencies may fund projects for any contaminant in any of the EPA's Contaminant Candidate Lists.

While most EPA regional staff agree that the guidance is generally clear, some EPA regional staff and state agency officials told us that parts of the guidance need clarification. Clearer guidance may also lead to more consistent implementation of IIJA funding, while more effectively addressing risks to human health. As of the end of fiscal year 2023, \$3.5 billion remained unobligated and only \$1.2 million, or 0.03 percent, of IIJA DWSRF emerging contaminants funds were spent on projects by the states. As more IIJA funding is spent by the states and more PFAS and other emerging contaminants are discovered, clearer guidance on how to prioritize DWSRF projects will help the EPA regions and states consistently address the risks of these emerging contaminants to human health in a more effective and timely manner.

Further, the EPA guidance does not adequately describe how to process transfers between different state revolving funds. At least three regions told us that, as a result, the process for awarding grants took longer than expected. Without adequate guidance, states may inconsistently process transfers between their state revolving funds. Such delays and inconsistencies may not only prevent the EPA from effectively implementing the IIJA provision to address emerging contaminants, but may also prevent the EPA from effectively implementing its *FY 2022-2026 EPA Strategic Plan* goal and objective to ensure safe drinking water.

Inconsistencies and delays caused by a lack of clarity in the guidance may prevent the EPA from effectively implementing the IIJA provision to address emerging contaminants and from effectively addressing the risks of emerging contaminants to human health.

Recommendations and Planned Agency Corrective Actions

We make three recommendations to the assistant administrator for Water. These recommendations include providing clarification to state agency staff on their discretion to prioritize non-PFAS over PFAS projects, based on the most serious risk to human health and how to process transfers between the state revolving funds, as well as providing additional training on the supplemental guidance. Two of the recommendations are resolved with corrective actions pending. One recommendation is unresolved, and resolution efforts are in progress.



OFFICE OF INSPECTOR GENERAL
U.S. ENVIRONMENTAL PROTECTION AGENCY

February 12, 2025

MEMORANDUM

SUBJECT: EPA Guidance Addresses Implementation Requirements for Infrastructure Investment and Jobs Act for Drinking Water State Revolving Fund Emerging Contaminants Funding, but Clarification Is Needed Before More States Spend Funds
Report No. 25-P-0015

FROM: Nicole N. Murley, Acting Inspector General *Nicole N. Murley*

TO: Benita Best-Wong, Deputy Assistant Administrator performing delegated duties as the Assistant Administrator of the Office of Water
Chad McIntosh, Associate Deputy Administrator

This is our report on the subject audit conducted by the U.S. Environmental Protection Agency Office of Inspector General. The project number for this audit was OA-FY23-0072. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures. The Office of Water is responsible for the issues discussed in this report.

In accordance with EPA Manual 2750, your office provided acceptable planned corrective actions and estimated milestone dates for Recommendations 2 and 3. These recommendations are resolved. A final response pertaining to these recommendations is not required; however, if you submit a response, it will be posted on the OIG's website, along with our memorandum commenting on your response.

Action Required

Recommendation 1 is unresolved. EPA Manual 2750 requires that recommendations be resolved promptly. Therefore, we request that the EPA provide us within 60 days its responses concerning specific actions in process or alternative corrective actions proposed on the recommendations. Your response will be posted on the OIG's website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epaoig.gov.

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Purpose

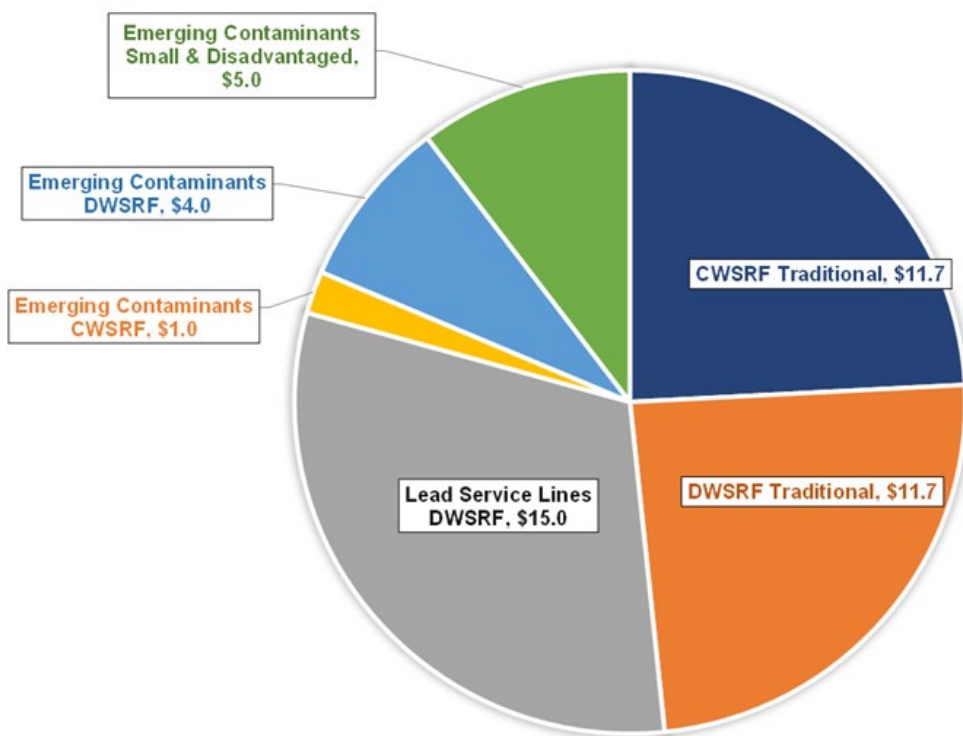
The U.S. Environmental Protection Agency Office of Inspector General initiated this audit to determine the extent to which the EPA provided state agency officials with guidance for the use of Drinking Water State Revolving Fund, or DWSRF, emerging contaminants funding, in accordance with Infrastructure Investment and Jobs Act, or IIJA, requirements and related federal implementation guidance. We performed this audit as a follow-up to findings in prior OIG reports, which identified that the EPA's implementation guidance for another supplemental appropriation, the American Recovery and Reinvestment Act, had challenges related to clarity and comprehensiveness. Appendix A provides more information about the American Recovery and Reinvestment Act and the prior OIG reports that served as the genesis of this audit.

Background

On November 15, 2021, the IIJA was signed into law, providing approximately \$60 billion to the EPA, which is the largest single appropriation that the Agency has ever received. Of this \$60 billion, approximately \$50 billion was appropriated to improve our nation's drinking water, wastewater, and stormwater infrastructure. Of that \$50 billion, the IIJA specifically designated \$4 billion for the EPA to allocate to states to address emerging contaminants—with a prioritization on per- and polyfluoroalkyl substances, or PFAS—through the DWSRF, as shown in Figure 1. Specifically, the IIJA requires that the \$4 billion be used to address emerging contaminants in drinking water with a focus on PFAS through capitalization grants under section 1452(t) of the Safe Drinking Water Act for the purposes described in section 1452(a)(2)(G).

The IIJA also requires that “funds provided under this paragraph in this Act deposited into the State revolving fund shall be provided to eligible recipients as loans with 100 percent principal forgiveness or as grants (or a combination of these).” Figure 1 also shows that the IIJA designated \$5 billion of that \$50 billion for grants to address emerging contaminants in small and disadvantaged communities pursuant to 42 U.S.C. § 300j-19a; \$1 billion for emerging contaminants funding through the Clean Water State Revolving Fund, or CWSRF; \$11.7 billion each for both the DWSRF and CWSRF for general use; and \$15 billion for DWSRF grants and contracts for lead service line projects.

Figure 1: EPA IJJA water infrastructure funding in billions



Source: OIG analysis of the EPA’s “FACT SHEET: EPA & The Bipartisan Infrastructure Law” [webpage](#). (EPA OIG adaptation of EPA image)

PFAS and Emerging Contaminants

According to the EPA, “[e]merging contaminants refer to substances and microorganisms, including manufactured or naturally occurring physical, chemical, biological, radiological, or nuclear materials, which are known or anticipated in the environment, that may pose newly identified or re-emerging risks to human health, aquatic life, or the environment.” Examples of emerging contaminants include manganese, perchlorate, and PFAS. PFAS are part of a specific group of emerging contaminants that are used in consumer products such as fire-fighting foams, paints, and cleaners. Studies have shown that exposure to PFAS may lead to cancer. In June 2022, the EPA issued drinking water health advisories for PFAS, and in March 2023, the EPA proposed a rule to regulate certain PFAS compounds. On April 10, 2024, the EPA announced the final National Primary Drinking Water Regulation for six PFAS, which establishes legally enforceable maximum contaminant levels. The rule requires ongoing monitoring of PFAS. Many states are in the early stages of testing for and discovering PFAS and other emerging contaminants.

State Revolving Funds

The DWSRF was established by the Safe Drinking Water Act Amendments of 1996, Pub. L. 104–182. The DWSRF is a financial assistance program that provides low-interest loans to eligible recipients to help fund necessary drinking water infrastructure improvement projects. Per section 1452 of the Safe

Drinking Water Act, 42 U.S.C. § 300j–12, the EPA is required to offer to enter into agreements with eligible states to make capitalization grants to the states to improve drinking water safety. To be eligible to receive a capitalization grant, a state must establish a state loan fund. To receive a capitalization grant, a state must apply for a grant and prepare an intended use plan that describes how it intends to use the DWSRF program funds, as well as how those uses support the overall goals of the DWSRF program. DWSRF emerging contaminants funds provided by the IJJA are deposited into the state revolving funds and are provided to eligible recipients as loans with 100 percent principal forgiveness, grants, or a combination of both. Funds provided by the IJJA are not subject to the matching or cost-share requirements of section 1452(e) of the Safe Drinking Water Act.

The state DWSRF agency issues loans to public water systems for eligible projects. As the loan recipients repay their loans, the state provides new loans to other eligible recipients. These repayments allow the funds to revolve over time. The EPA replenishes and increases the DWSRF through capitalization grants, which are usually awarded annually through an established allotment. Per the Safe Drinking Water Act, the EPA will use the existing state revolving fund allotment formulas for all IJJA state revolving fund, or SRF, appropriations. The allotment formula is based on data derived from the most recent Drinking Water Infrastructure Needs Survey and Assessment, an assessment that the EPA conducts every four years. Federal DWSRF investments have provided more than \$21 billion in assistance agreements through 2019.

The Safe Drinking Water Act allows states to set aside a portion of their DWSRF capitalization grant to support water systems with noninfrastructure needs. States have the discretion to take up to approximately 31 percent of their capitalization grant for set-asides for technical assistance, program management, and local assistance needs. Set-asides must be used to either administer the capitalization grant or meet the statutory purpose of IJJA funds “to address emerging contaminants in drinking water with a focus on perfluoroalkyl and polyfluoroalkyl substances.”

Congress amended the Clean Water Act in 1987 to establish the CWSRF Program, which is a similar funding mechanism to the DWSRF, through which a federal-state partnership provides low-cost financing to communities for water-quality infrastructure projects. These projects may include municipal wastewater facilities, nonpoint source pollution control, decentralized wastewater treatment systems, stormwater runoff mitigation, green infrastructure, estuary protection, and water reuse.

States can transfer funds between their CWSRF and DWSRF, subject to certain limitations.¹ The Purpose Statute, 31 U.S.C. § 1301(a), requires that appropriated funds be used in a manner consistent with their congressionally designated purposes. Therefore, IJJA CWSRF funds appropriated for addressing emerging contaminants may only be transferred to DWSRF funds to address emerging contaminants and vice versa. According to data provided by the EPA, as of September 25, 2023, \$1.2 million of IJJA emerging contaminants funds has been spent specifically through the DWSRF.

¹ 42 U.S.C. § 300j–12, note. See also [40 C.F.R. § 35.3530\(c\)](#).

The EPA has provided the following guidance relevant to implementing IIJA DWSRF emerging contaminants funding:

- *Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law* memorandum, which we refer to as *IIJA SRF Implementation*, dated March 8, 2022. Issued to EPA regional water directors and state DWSRF managers, the memorandum notes that states “have the flexibility to fund projects for any contaminant in any of EPA’s Contaminant Candidate Lists,” which lists contaminants that may be present in public water systems. The *IIJA SRF implementation* memorandum describes eligible projects and activities to address emerging contaminants in drinking water with a focus on PFAS. Examples include emerging contaminants costs associated with the construction of a new treatment facility or an upgrade to an existing treatment facility that addresses emerging contaminants. Other eligible projects include infrastructure related to pilot testing for treatment alternatives. The *IIJA SRF implementation* memorandum states that IIJA funding can be used for removing PFAS under the general umbrella of “addressing” PFAS.
- “Drinking Water Bipartisan Infrastructure Law Emerging Contaminants Funding Options” training webinar, dated January 2023. The training webinar describes IIJA implementation key priorities and fund eligibilities. It also provides project and activity examples.
- The EPA’s “BIL SRF Q’s and A’s” [webpage](#). This frequent-questions webpage provides responses to IIJA SRF implementation questions and was last updated in October 2024.

Responsible Offices

The Office of Water is responsible for ensuring that drinking water is safe and for restoring and maintaining oceans, watersheds, and their aquatic ecosystems to protect human health and the environment. Within the Office of Water, the Office of Ground Water and Drinking Water is responsible for protecting human health by ensuring the delivery of safe drinking water. Additionally, it oversees implementation of the Safe Drinking Water Act, as amended, and oversees and assists state drinking water programs. The Office of Ground Water and Drinking Water also supports EPA goal Number 5 to “ensure clean and safe water for all communities,” and Objective 5.1, “to ensure safe drinking water and reliable water infrastructure,” as described in the [FY 2022-2026 EPA Strategic Plan](#). It supports this goal and objective by implementing IIJA funding for emerging contaminants through the DWSRF.

Scope and Methodology

We conducted this performance audit from April 2023 to September 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We assessed the internal controls necessary to satisfy our audit objective.² In particular, we assessed the internal control components—as outlined in the U.S. Government Accountability Office’s *Standards for Internal Control in the Federal Government*—significant to our audit objective. Any internal control deficiencies we found are discussed in this report. Because our audit was limited to the internal control components deemed significant to our audit objective, it may not have disclosed all internal control deficiencies that may have existed at the time of the audit. We found the information and communication internal control component to be significant to our objective. This component addresses how management uses quality information to support the internal control system. The *IIJA SRF Implementation* memorandum is the EPA’s main guidance document relevant to our audit. In addition, we obtained and analyzed relevant guidance documents from EPA staff, including the training webinar and the frequent-questions webpage. We also analyzed inter-SRF transfers guidance, including the following EPA policy statement and draft technical document:

- *Transfer and Cross-Collateralization of Clean Water State Revolving Funds and Drinking Water State Revolving Funds*, dated October 13, 2000.
- *Managing Full Grant SRF Federal Funding Transfers*, dated August 22, 2022.

Further, we obtained and analyzed the IIJA, Safe Drinking Water Act section 1452, Contaminant Candidate Lists 1–5, state-related IIJA implementation documents, and prior OIG reports.

We created and sent a survey, shown in Appendix B, to points of contact from EPA Regions 1 through 10 to determine whether the Office of Water provided the regions with clear and sufficient guidance to efficiently and effectively implement IIJA funding for state DWSRF emerging contaminants projects. We also sent a follow-up survey to select regions for further information. We compared the survey responses with the Office of Water’s guidance to determine whether the two were consistent.

We interviewed select staff and officials in the Office of Ground Water and Drinking Water; Regions 1 and 10; state agencies; and three nongovernmental organizations that specialize in drinking water capability, finance, and administration to determine the extent to which the EPA provided state agency officials with guidance for the use of DWSRF emerging contaminants funding, in accordance with the IIJA requirements and related federal implementation guidance.

Results

EPA guidance generally addresses IIJA DWSRF emerging contaminants provisions, such as the focus of IIJA funding for PFAS projects and providing DWSRF loans with 100 percent principal forgiveness as detailed in the background section. The guidance that the EPA provided to state agency officials is clear on what kinds of emerging contaminant projects are acceptable, as the *IIJA SRF Implementation*

² An entity designs, implements, and operates internal controls to achieve its objectives related to operations, reporting, and compliance. The U.S. Government Accountability Office sets internal control standards for federal entities in GAO-14-704G, *Standards for Internal Control in the Federal Government*, issued September 2014.

memorandum notes that states may fund projects for any contaminant in any of the EPA's Contaminant Candidate Lists.

EPA staff from nine regions responded in our survey that they felt that the guidance is clear; however, some state agency officials and some EPA regional staff told us that parts of the guidance are unclear. Specifically, the guidance does not clearly detail whether states have the flexibility to rank and fund non-PFAS projects above PFAS-focused projects. Further, the guidance does not adequately detail how to process inter-SRF transfers. Without clear guidance, state agency officials may not prioritize and fund projects to address other emerging contaminants that may pose more risks to human health in their states than PFAS. This may lead to the inconsistent implementation of IJJA funding. Further, the EPA did not provide adequate guidance on how to process inter-SRF transfers. This caused state agency and EPA regional staff to be delayed in awarding grants. Such delays and inconsistencies may prevent the EPA from achieving its strategic plan goal and objective to ensure safe drinking water and the IJJA provision to address emerging contaminants in drinking water.

The EPA Needs to Provide Clarification on Allowable Ranking and Funding Levels of Non-PFAS-Related Projects

While the guidance that the EPA provided to state agency officials is clear on what kinds of emerging contaminant projects are acceptable, it does not clearly detail whether states have the flexibility to use the funding for emerging contaminants other than PFAS that are identified as being more of a serious health risk.

There are varying levels of PFAS across states, with some regions and states facing more risks to human health from other emerging contaminants, such as manganese, than from PFAS. For example, we learned that, in Kansas, manganese is the emerging contaminant of concern, and that there is only one PFAS-related project in the state. Some states consider the EPA guidance unclear; specifically, the guidance does not detail whether states have the flexibility to rank non-PFAS projects higher than PFAS projects.

In survey responses and interviews, Region 1 staff and Connecticut and Washington state agency staff indicated that the EPA's guidance needed to be clearer. For example, staff from Connecticut stated that it is unclear whether the focus on PFAS is a requirement or a recommendation. Staff also stated that they are unsure whether they should also consider additional factors, such as public health and project readiness, when implementing the guidance. Specifically, staff from Connecticut were unsure how to rank PFAS projects versus manganese projects on intended use plans. EPA regional and state officials indicated that it would be helpful if the guidance clarified a state's ability to prioritize certain emerging contaminants, other than PFAS, when those contaminants pose the most serious public health risk. The *IJJA SRF implementation* memorandum clearly states that IJJA funds can be used for any emerging contaminant on the EPA's Contaminant Candidate Lists. Yet, the *IJJA SRF implementation* memorandum does not clearly detail what level or percentage of funding should be allocated to meet the IJJA's provision to focus on PFAS.

To meet PFAS rule requirements, public water systems must monitor for regulated PFAS and complete initial monitoring by April 2027. Many systems do not have the data to know whether PFAS is present. We also learned that, in states where there are known PFAS problems, there is a critical need for funding. Washington state agency staff reviewed fewer than 10 percent of the state's public water systems and found PFAS. Considering these factors, the Agency should clarify its guidance for allowable ranking and funding levels of non-PFAS-related projects.

As of the end of fiscal year 2023, \$3.5 billion remained unobligated and only \$1.2 million, or 0.03 percent, of IIJA DWSRF emerging contaminants funds were spent on projects by the states. As more IIJA funding is spent by the states and more PFAS and other emerging contaminants are discovered, the EPA should clarify the guidance on allowable ranking and funding of emerging contaminant projects or there is a risk that state agency officials may prioritize and fund projects that address PFAS over non-PFAS projects that may pose a more serious risk to human health.

The EPA Needs to Provide Supplemental Guidance for Transfers Between State Revolving Funds

The EPA did not provide adequate guidance on how to process inter-SRF transfers. States can transfer capitalization grant funds between their CWSRF and DWSRF, subject to certain limitations. According to the EPA, the *Transfer and Cross-Collateralization of Clean Water State Revolving Funds and Drinking Water State Revolving Funds* policy statement is the Agency's only policy on inter-SRF transfers. EPA headquarters staff also told us that, in August 2022, the Agency developed a draft internal technical document, *Managing Full Grant SRF Federal Funding Transfers*, which addresses how to make the inter-SRF transfer process easier in certain cases. This document was never finalized, and the process outlined only applies to transfers of the full grant amount, not to partial transfers.

Staff from Regions 1, 4, and 5 informed us that the EPA needs to clarify the guidance on how to process inter-SRF transfers involving IIJA funds. Because the EPA did not provide adequate guidance on how to conduct inter-SRF transfers, regions and states conducted the transfers differently. Because of the need for clarification and additional guidance, some regions may experience delays. Therefore, the process for awarding grants may take longer than expected. For example, Region 1 staff told us that Massachusetts state agency staff initiated a full inter-SRF transfer of \$3.2 million from the CWSRF IIJA-funded emerging contaminants grant to the DWSRF. State agency and EPA regional staff awarded, or obligated, these IIJA funds to the state, but they ultimately had to de-obligate the funds because the obligation was processed based on inadequate guidance. As a result of the de-obligation, the funds had to be reprogrammed as DWSRF emerging contaminants funds. Once the funds were de-obligated, the Region 1 comptroller's office requested that EPA headquarters reprogram those funds. EPA headquarters staff then had to notify the Office of Management and Budget. After that, headquarters staff routed the request to the EPA Office of the Chief Financial Officer and to congressional staff for approval. According to Region 1 staff, the entire inter-SRF transfer took nine months and delayed grant processing. To assist EPA regions and states in conducting efficient and effective inter-SRF transfers, the EPA should clarify and update its transfer policy guidance.

Conclusions

EPA guidance generally addresses IJJA DWSRF emerging contaminants provisions but does not detail allowable ranking and funding levels of non-PFAS projects or detail how to process inter-SRF transfers. Clear guidance may lead to more efficient and effective implementation of the remaining \$3.5 billion in unobligated IJJA emerging contaminants funding. Clearer guidance will help the EPA not only meet its relevant strategic plan goal and objective to ensure safe drinking water, but also effectively implement IJJA provisions to address emerging contaminants while more effectively addressing risks to human health.

Recommendations

We recommend that the assistant administrator for Water:

1. Provide clarification to state agency staff on their discretion to prioritize non-per- and polyfluoroalkyl substances over per- and polyfluoroalkyl substances projects, based on the most serious risk to human health.
2. Provide supplemental guidance to the EPA regions and the state revolving fund managers on processing transfers between the Drinking Water State Revolving Fund and Clean Water State Revolving Fund involving Infrastructure Investment and Jobs Act funds to address emerging contaminants.
3. Provide additional training on the supplemental guidance to EPA regional and state agency staff in a timely manner.

Agency Response and OIG Assessment

The Agency disagreed with Recommendation 1 and agreed with Recommendations 2 and 3. For Recommendations 2 and 3, the Office of Water provided acceptable proposed corrective actions and estimated milestone dates. We consider these recommendations resolved with corrective actions pending.

The Agency did not provide acceptable proposed corrective actions for Recommendation 1; therefore, we consider this recommendation unresolved. In its response to our draft report, the Agency stated that clarification is unnecessary because nine out of ten regions found the guidance to be clear. At the time of our fieldwork, many systems did not have the data to know whether PFAS was present in their water. To meet PFAS rule requirements, public water systems must monitor for regulated PFAS and complete initial monitoring by April 2027. As more states determine the contaminants that pose the most serious risks to human health, clarification on allowable ranking and funding of emerging contaminant projects may be necessary.

The Agency also stated in its response that it is allowable for states to rank and fund non-PFAS projects how they see fit and according to their best professional judgement, as this interpretation is consistent

with IJA intent and relevant requirements. Because this clarification directly addresses concerns expressed by Region 1 and is likely to become more relevant as public water systems validate more PFAS data, this clarified interpretation should be made available to the public in the EPA's online guidance, such as its "Frequent Questions" webpage and training webinar slides.

Lastly, the Agency discussed training that it has provided since November 2021 on emerging contaminants funding and how to prioritize projects, along with its "Frequent Questions" webpage. Specifically, the Agency stated that this webpage includes questions highlighting how DWSRF emerging contaminant projects should be ranked on project priority lists. While we agree that the "Frequent Questions" webpage contains valuable information, as of October 24, 2024, this webpage does not address whether it is allowable for states to rank and fund non-PFAS projects over PFAS-focused projects.

The Agency also provided technical comments, which we reviewed and incorporated as appropriate. Appendix C contains the Agency's response to the draft report.

Status of Recommendations

Rec. No.	Page No.	Recommendation	Status*	Action Official	Planned Completion Date
1	8	Provide clarification to state agency staff on their discretion to prioritize non- per- and polyfluoroalkyl substances over per- and polyfluoroalkyl substances projects, based on the most serious risk to human health.	U	Assistant Administrator for Water	—
2	8	Provide supplemental guidance to the EPA regions and the state revolving fund managers on processing transfers between the Drinking Water State Revolving Fund and Clean Water State Revolving Fund involving Infrastructure Investment and Jobs Act funds to address emerging contaminants.	R	Assistant Administrator for Water	3/31/25
3	8	Provide additional training on the supplemental guidance to EPA regional and state agency staff in a timely manner.	R	Assistant Administrator for Water	5/1/25

- * C = Corrective action completed.
 R = Recommendation resolved with corrective action pending.
 U = Recommendation unresolved with resolution efforts in progress.

The American Recovery and Reinvestment Act and Prior OIG Reports Related to the Act

The American Recovery and Reinvestment Act was signed into law on February 17, 2009. It authorized \$787 billion in funding in the form of contracts, grants, and loans, among other things. For example, the Act provided funding to invest in environmental protection and other infrastructure. We issued various reports on EPA programs that received funds under the American Recovery and Reinvestment Act. Because many of the water infrastructure programs that received funds under that Act are also IIJA funded, we initiated this audit to identify findings from prior OIG reports about the American Recovery and Reinvestment Act and to develop lessons that may help the Agency prepare, implement, and oversee programs receiving IIJA appropriations.

We first reviewed EPA OIG Report No. [23-N-0004](#), *American Recovery and Reinvestment Act Findings for Consideration in the Implementation of the Infrastructure Investment and Jobs Act*, issued December 7, 2022. This report detailed how prior EPA OIG reports, listed in Table A-1, concluded that the EPA did not have clear and comprehensive guidance on how to achieve the provisions of the American Recovery and Reinvestment Act.

Table A-1: Prior OIG reports reviewed as part of this audit

Report number	Report title	Issuance date
12-R-0898	<i>EPA Can Improve Its Reporting of Dollars Leveraged From the American Recovery and Reinvestment Act Brownfields Program</i>	September 27, 2012
11-R-0519	<i>EPA and States Should Strengthen Oversight of Clean Water State Revolving Fund Recovery Act Projects</i>	August 24, 2011
11-R-0208	<i>EPA Faced Multiple Constraints to Targeting Recovery Act Funds</i>	April 11, 2011
11-R-0141	<i>EPA Should Improve Guidance and Oversight to Ensure Effective Recovery Act-Funded Diesel Emissions Reduction Act Activities</i>	March 1, 2011
11-R-0081	<i>EPA Can Improve the Use of Financial Monitoring Reviews for Recovery Act Superfund Contracts</i>	January 31, 2011
11-R-0018	<i>Leaking Underground Storage Tank Recovery Act Grants Contained Requirements but Priority Lists Need More Oversight</i>	November 22, 2010
10-R-0234	<i>EPA Effectively Reviewed Recovery Act Recipient Data but Opportunities for Improvement Exist</i>	September 27, 2010
10-R-0057	<i>EPA Needs Definitive Guidance for Recovery Act and Future Green Reserve Projects</i>	February 1, 2010
10-R-0049	<i>EPA Action Needed to Ensure Drinking Water State Revolving Fund Projects Meet the American Recovery and Reinvestment Act Deadline of February 17, 2010</i>	December 17, 2009

Source: OIG analysis of prior OIG reports related to the American Recovery and Reinvestment Act. (EPA OIG table)

Survey Results

In our survey, we asked the EPA regional drinking water points of contact questions and requested statements related to the guidance pertaining to the \$4 billion allotment for the IJJA DWSRF emerging contaminants funding. The tables in this appendix lists the question or statement and the regions' response.

For the first three survey items, we asked the EPA regional drinking water points of contact to rate their level of agreement with the statements by selecting either agree or disagree. We then asked three yes-or-no questions. When "no" answers were given, we then asked the respondents to list the states that believed the guidance was not clear and comprehensive. For the remaining questions, we offered respondents the opportunity to provide statements in open-ended text fields. All responses from the regions are below and verbatim as provided to us.

In addition to the questions in the original survey, we asked several follow-up questions. The follow-up questions and answers are included below under "Follow-Up Survey."

Statement: The guidance is clear.

Region	Response
Region 1	Disagree
Region 2	Agree
Region 3	Agree
Region 4	Agree
Region 5	Agree
Region 6	Agree
Region 7	Agree
Region 8	Agree
Region 9	Agree
Region 10	Agree

Statement: The guidance is comprehensive.

Region	Response
Region 1	Disagree
Region 2	Agree
Region 3	Agree
Region 4	Agree
Region 5	Agree
Region 6	Agree
Region 7	Agree
Region 8	Agree
Region 9	Agree
Region 10	Agree

Statement: The guidance is relevant in implementing emerging contaminants funding to the states.

Region	Response
Region 1	Agree
Region 2	Agree
Region 3	Agree
Region 4	Agree
Region 5	Agree
Region 6	Agree
Region 7	Agree
Region 8	Agree
Region 9	Agree
Region 10	Agree

Question: Have any states in your region expressed that DWSRF emerging contaminants funding implementation guidance is not clear?

Region	Response
Region 1	Yes
Region 2	No
Region 3	No
Region 4	No
Region 5	No
Region 6	No
Region 7	No
Region 8	No
Region 9	No
Region 10	No

Statement: Please list the states in your region that have expressed the guidance is not clear and provide any comments you may have.

Region	Response
Region 1	Connecticut - The state felt that it was not clear that PFAS projects were required to be prioritized over other emerging contaminant projects
Region 2	No Response
Region 3	No Response
Region 4	No Response
Region 5	No Response
Region 6	No Response
Region 7	No Response
Region 8	No Response
Region 9	No Response
Region 10	No Response

Question: Have any states in your region expressed that DWSRF emerging contaminants funding implementation guidance is not comprehensive?

Region	Response
Region 1	Yes
Region 2	No
Region 3	No
Region 4	No
Region 5	No
Region 6	No
Region 7	No
Region 8	No
Region 9	No
Region 10	No

Statement: Please list the states in your region that have expressed the guidance is not comprehensive and provide any comments you may have.

Region	Response
Region 1	Connecticut and Vermont - both states have multiple eligibility questions regarding the EC funding; New Hampshire - the state felt that the CCLs were limiting in what types of projects could be funded
Region 2	No Response
Region 3	No Response
Region 4	No Response
Region 5	No Response
Region 6	No Response
Region 7	No Response
Region 8	No Response
Region 9	No Response
Region 10	No Response

Question: Have any states in your region expressed that DWSRF emerging contaminants funding implementation guidance is not relevant in implementing emerging contaminants funding to the states?

Region	Response
Region 1	No
Region 2	No
Region 3	No
Region 4	No
Region 5	No
Region 6	No
Region 7	No
Region 8	No
Region 9	No
Region 10	No

Statement: Please list the states in your region that have expressed the guidance is not relevant in implementing emerging contaminants funding to the states.

Region	Response
Region 1	No Response
Region 2	No Response
Region 3	No Response
Region 4	No Response
Region 5	No Response
Region 6	No Response
Region 7	No Response
Region 8	No Response
Region 9	No Response
Region 10	No Response

Question: What IIJA DWSRF emerging contaminants guidance beyond the March 2022 IIJA implementation memo, issued by the EPA Office of Water, has your region received from HQ to ensure state officials efficiently and effectively implement the funding?

Region	Response
Region 1	There has been supplemental Q&As that covered all IIJA SRF funding but nothing specific to the EC IIJA funding.
Region 2	January 31, 2023 EPA webinar "Drinking Water Bipartisan Infrastructure Law (BIL) Emerging Contaminant (EC) Funding Options"
Region 3	<p>IUP Discussion Guide used by Regions in Discussions with States as the developed their IUPS'</p> <p>The Year 2 BIL SRF Implementation Memo dated January 6, 2023;</p> <p>The BIL-SRF Q&As posted on the website (but nothing specific to DWSRF-EC yet);</p> <p>A webinar specific to DWSRF-EC was presented on January 31, 2022; the recording is available on the SRF-BIL website. The slides are here: https://www.epa.gov/system/files/documents/2023-03/Emerging%20Contaminants%20Presentation%20Jan%2031%202023.pdf</p> <p>An EPA-HQ Office of Water official offered to meet with any state and/or region to answer any questions or discuss any concerns regarding IIJA-BIL implementation;</p> <p>EPA-HQ keeps the national websites current as more information becomes available: https://www.epa.gov/infrastructure/water-infrastructure-investments https://www.epa.gov/dwsrf/bipartisan-infrastructure-law-srf-memorandum</p>
Region 4	none
Region 5	q and a document; regular DWSRF eligibility guide
Region 6	N/A
Region 7	Region 7 participated in the IIJA trainings offered by EPA HQs. Emerging contaminant was discussed in detail during the 3-day training sessions.
Region 8	We have received HQ advice on specific project scenarios that states had asked about, but no formal broad guidance.

Region	Response
Region 9	Year 2 memo, Q&A's posted to the EPA website, and situation-specific support from HQ via emails and internal EPA national SRF coordinator calls.
Region 10	Frequent Questions and Answers posted to the website and BIL drinking water EC funding webinar in Jan 2023.

Question: What IIJA DWSRF emerging contaminants funding guidance in addition to the March 2022 IIJA implementation memo has EPA provided to state officials or grantees?

Region	Response
Region 1	Region 1 shared the same supplemental Q&As that were mentioned above with all the New England states. Additionally Region 1 provides feedback to specific eligibility questions that come in from our states. We also have monthly Teams calls with all the SRF state staff to allow for questions and open discussion on anything IIJA SRF related.
Region 2	January 31, 2023 EPA webinar "Drinking Water Bipartisan Infrastructure Law (BIL) Emerging Contaminant (EC) Funding Options"
Region 3	IUP Discussion Guide used by Regions in Discussions with States as the developed their IUPS' The Year 2 BIL SRF Implementation Memo dated January 6, 2023; The BIL-SRF Q&As posted on the website (but nothing specific to DWSRF-EC yet); A webinar specific to DWSRF-EC was presented on January 31, 2022; the recording is available on the SRF-BIL website. The slides are here: https://www.epa.gov/system/files/documents/2023-03/Emerging%20Contaminants%20Presentation%20Jan%2031%202023.pdf An EPA-HQ Office of Water official offered to meet with any state and/or region to answer any questions or discuss any concerns regarding IIJA-BIL implementation; EPA-HQ keeps the national websites current as more information becomes available: https://www.epa.gov/infrastructure/water-infrastructure-investments https://www.epa.gov/dwsrf/bipartisan-infrastructure-law-srf-memorandum
Region 4	None. Only aware of the March 2022 IIJA implementation memo.
Region 5	q and a document; regular DWSRF eligibility guide
Region 6	N/A
Region 7	Region 7 participated in the IIJA trainings offered by EPA HQs. Emerging contaminant was discussed in detail during the 3-day training sessions.
Region 8	EPA has shared funding guidance in relation to the timeframe a state has to apply and how the cost share should be calculated for grantees.
Region 9	Same as above. Year 2 memo, Q&A's posted to the EPA website, and situation-specific support from HQ via emails and information relayed on internal EPA national SRF coordinator calls.
Region 10	Other than the Frequent Questions on the website and the webinar, not sure if there has been other funding guidance to state officials.

Question: What additional IIJA DWSRF emerging contaminants guidance, if any, is needed to ensure state officials deploy emerging contaminants funding in accordance with IIJA requirements and related federal implementation guidance?

Region	Response
Region 1	More clarification on PFAS being a priority contaminant and that PFAS projects should be funded above other EC projects is needed. Also guidance on co-funding with other types of funding (e.g., other IIJA SRF or base SRF funds).
Region 2	None.
Region 3	No additional guidance is needed.
Region 4	South Carolina request additional guidance on how to transfer the CWSRF EC funds to the DWSRF EC funds. EPA R4 grants division shared the Recipient Grant Application Checklist and Helpful Tips for transferring funds.
Region 5	none
Region 6	N/A
Region 7	Nothing additional is needed. The March 2022 IIJA implementation memo meeting and trainings were sufficient.
Region 8	Circumstantial clarifications will always be necessary because SRF projects can be very complicated, so ad hoc requests from states about policy and regulation implementation are a common occurrences
Region 9	Q&A's that address situation-specific circumstances that may apply more broadly across Regions.
Region 10	I think between the March 2022 memo and the Frequent Questions, state questions are able to be addressed. Potential benefit could be from more specific uses of funds for non-PFAS ECs like cyanotoxins in source water protection and manganese. Also, an updated cross-cutting authorities guidance would be helpful for states to carryout environmental review for these projects.

Question: What concerns, if any, do you have regarding the state officials' ability to use IIJA DWSRF emerging contaminants funding in accordance with IIJA requirements and related federal implementation guidance? Please identify the state(s).

Region	Response
Region 1	No concerns on any particular state's ability to utilize the EC IIJA funding. There is a great demand in New England, particularly with PFAS projects.
Region 2	Generally Region 2 states are and will implement BIL DWSRF Emerging Contaminants capitalization grant funds via their Intended Use Plans (IUPs).
Region 3	None.
Region 4	Across the Region, many water systems are looking for certainty on PFAS regulatory limits and monitoring requirements before pursuing infrastructure projects. The limitation discussed from a few state programs (MS, GA, NC) is staffing which may limit the capacity to effectively market and implement the funding program. Across the Region, States are working on their IUPs and reviewing applications to determine which projects are eligible for these funds.
Region 5	none
Region 6	No concerns at the moment.
Region 7	No concerns about our Region 7 states ability to use funding according to the IIJA requirements and related federal implementation guidance.
Region 8	No concerns regarding state grantee's ability to follow the IIJA requirements.
Region 9	HI and NV would like to be able to use Drinking Water emerging contaminant funds for projects to address decentralized systems that have traditionally been funded through the Clean Water SRF program. Projects such as cesspool closures and septic system conversions, while they directly treat wastewater, indirectly impact drinking water quality. States are able to transfer up Drinking Water EC funds to the Clean Water EC fund, but they are limited by the 33% threshold based on the

Region	Response
	Drinking Water EC allotment. There may be additional barriers to transfers specific to state laws and regulations. For example, HI must obtain transfer authority from its Legislature.
Region 10	I do not have concerns with any Region 10 state using the DWSRF-EC funding appropriately. I do have concerns that actual costs may far exceed estimate costs by the time they receive funding. I also have concerns that baseline sampling is being offered on a voluntary basis, in some states (Idaho as an example), voluntary sampling has a low turnout, therefore not all emerging contaminants in water systems are being detected and therefore will not benefit from the funding opportunity.

Question: What guidance has EPA provided to state officials regarding the 25% of IIJA DWSRF emerging contaminants funding for disadvantaged or small communities?

Region	Response
Region 1	There has been no specific guidance from EPA HQ on the 25% funding towards DACs or small communities.
Region 2	The FY22 IIJA SRF implementation guidance; the January 31, 2023 EPA webinar "Drinking Water Bipartisan Infrastructure Law (BIL) Emerging Contaminant (EC) Funding Options"
Region 3	This was included in the original March 2022 implementation guidance and the IUP Discussion Guide.
Region 4	The March 2022 Implementation Memo
Region 5	it is outlined in the March implementation memo - this requirement comes directly from the Safe Drinking Water Act
Region 6	Nothing to my knowledge.
Region 7	The implementation memo was provided to states along with the ability to attend the IIJA EPA HQs trainings.
Region 8	Clarifications and examples of what it means and how to put it into practical use.
Region 9	March 2022 BIL Implementation Memo and discussions surrounding the requirement (based off of the BIL implementation memo) as needed.
Region 10	I'm not aware of any guidance outside of the March 2022 Memo.

Question: What additional guidance, if any, is needed to ensure states are meeting the requirement of 25% of the IIJA DWSRF emerging contaminants funds to be used in small and disadvantaged communities?

Region	Response
Region 1	More guidance on co-funding with the EC IIJA funding is needed, particularly because the EC defines a "small" communities as serving under 25,000 whereas most other drinking water programs define "small" as under 10,000 so there is potential for confusion. More guidance on reporting would also be helpful for states to meet all requirements.
Region 2	Continued discussions on progress and revisions that may be necessary to meet the requirement as part of the programmatic Annual Onsite Review with the States.
Region 3	None.
Region 4	none
Region 5	none
Region 6	No comment.
Region 7	No additional guidance needed.
Region 8	no additional guidance needed.
Region 9	No need for additional guidance at this time. Region 9 reaches out to the HQ SRF program for support to evaluate specific eligibility questions and situations.

Region	Response
Region 10	Suggestions for considerations or examples of redefining disadvantaged communities. Guidance on how to reach small systems and disadvantaged communities. Also a description of how to fund disadvantaged communities that are within a larger water system.

Question: If IIJA DWSRF emerging contaminants guidance is lacking, what are the causes and effects of this lack of guidance to the states?

Region	Response
Region 1	Delay in comprehensive and consistent guidance from EPA HQ has caused delay in implementation of the IIJA funding by the states. There was delays in receiving the terms and conditions for the 2022 IIJA grants which caused delays in awarding the grants. There has also been delays in clear guidance on transferring EC funding between the CWSRF and DWSRF programs and this caused a 9 month delay in transferring funds from CWSRF EC to DWSRF EC in one of our states. Due to the high visibility of the IIJA there has been significant delays in getting consistent responses from EPA HQ which causes the states to have to wait to ensure compliance.
Region 2	N/A
Region 3	R3 believes there is adequate guidance in place.
Region 4	n/a
Region 5	none
Region 6	N/A
Region 7	Guidance not lacking, if Region 7 or our states has questions we refer to the IIJA March 2022 guidance and EPA HQs training.
Region 8	not lacking
Region 9	Guidance is not lacking. EPA Region 9 has been able to clarify project-specific eligibility questions working directly with HQ and the states as needed.
Region 10	The lack of specific guidance on redefining and reaching out to disadvantaged communities would result in a fewer projects in small/disadvantaged communities.

Question: What gaps and barriers does your region have when it comes to implementing IIJA DWSRF emerging contaminants funding?

Region	Response
Region 1	<p>Delays in the hiring process at EPA has made it more challenging to implement SRF and IIJA. There is a need for readily available training from EPA HQ so that when new SRF staff start that it can be available right away. Training is currently piecemeal and there is not any comprehensive IIJA SRF training. There are also state SRF staffing issues - turnover and retirements take a long time to replace and train and more succession planning and proper SOP documentation is needed at every level (HQ, Regional, and state). There is a need for engineering/technical training for SRF oversight for states which has never been available and there needs to be financial training on a more consistent basis. SRF and IIJA training should also be updated for the times that we are currently in (many states and Regions operate in a hybrid manner so training should be available in the same way).</p> <p>Another large barrier is getting timely responses from EPA HQ and other federal agencies that implement SRF requirements (e.g., Department of Labor).</p> <p>Another barrier specifically for the EC IIJA funding is that a lot of the EC technology is not readily available/manufactured in the US so the Build America Buy America Act implementation is a challenge. Supply chain issues are also causing delays to projects.</p>
Region 2	Puerto Rico DWSRF program has expressed some concern about finding eligible projects.
Region 3	No gaps or barriers to implementation in Region 3.
Region 4	Alabama is purchasing PFAS equipment needed to help with analyses. Florida is working on compiling data of system with traces of PFAS and building a new state lab with PFAS equipment to

Region	Response
	help systems in sample analysis. Mississippi does not have an inventory of PFAS sources and potential pollution areas in the state so they do not know where to look for projects and communities have not stepped forward to propose projects. Tennessee has a backlog of PFAS funding from other sources so they did not want to take additional EC money. Staffing challenges at the state level may represent a barrier to emerging contaminant funding.
Region 5	none
Region 6	N/A
Region 7	No gaps or barriers experienced in our region.
Region 8	none.
Region 9	No gaps or barriers we can think of. Region 9 has a close relationship with state SRF programs to work through questions and issues as they arise.
Region 10	The largest gap/barrier our region has is grants specialists staff to process the awards.

Question: Since issuing the EPA 2022 IIJA implementation memo, have any state officials in your region requested further guidance for IIJA DWSRF emerging contaminants funding? If yes, please identify the state(s) and what guidance they requested?

Region	Response
Region 1	Although no states have requested it specifically, all the Region 1 states would participate in any IIJA EC training that would be made available. CT has requested more specific guidance on PFAS projects being required to be a priority over other EC projects.
Region 2	No.
Region 3	No State in Region 3 (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia) have requested additional guidance related to IIJA-DWSRF emerging contaminants funding. Maryland and West Virginia requested we confirm their understanding of an eligibility. This is a normal process in Region 3 anytime a state is doing something new. Since the state's understanding was correct in both instances, it reflects that the guidance is adequate.
Region 4	South Carolina requested guidance on how to transfer funds from the DWSRF EC to CWSRF EC.
Region 5	none
Region 6	None.
Region 7	No Region 7 state requests of further guidance for IIJA DWSRF emerging contaminants received.
Region 8	States have only requested interpretations of guidance for project specific scenarios as a way to "double-check" their approach. They want to ensure things are being done correctly and are more comfortable when EPA verifies their questions.
Region 9	In FY22 and FY23, some Region 9 states voiced interest in transferring in emerging contaminant funds from Drinking Water to Clean Water or vice versa. HQ provided a streamlined process to the Regions and Region 5 shared their own resources to conduct the transfers correctly and successfully, building off of the process that HQ developed. These documents were not requested by the states, but were developed to create a consistent, internal grants process for such transfers between SRFs. We also received a request from HI regarding whether the EC funding could be used to address contaminants that are neither PFAS nor CCL contaminants, and which are also not regulated contaminants by National Primary Drinking Water Regulations.
Region 10	Not that I am aware of.

Question: Which states have had more challenges in implementing IIJA DWSRF emerging contaminants funding and why?

Region	Response
Region 1	Many of the Region 1 states had established or were looking to establish an MCL prior to the federal one coming out so sampling and testing have occurred in the New England states and project priority lists were established with EC projects. Massachusetts transferred the CWSRF EC IIJA

Region	Response
	funding to DWSRF EC IIJA and that took a very lengthy amount of time which delayed the use of those funds.
Region 2	Puerto Rico - finding eligible projects. US Virgin Islands is in a similar situation, though the territory has a construction grant program.
Region 3	None.
Region 4	MS is not aware of water systems with project needs to address emerging contaminants. Alabama and Florida may look into transfer of CWSRF EC to DWSRF EC.
Region 5	all states needed to have project applications for eligible pollutants so it depended on the state how many and the type of applications that came in
Region 6	N/A
Region 7	None of our states experienced challenges implementing IIJA DWSRF emerging contaminant funding.
Region 8	Wyoming has had difficulty finding EC projects, for lack of sheer numbers of systems. They only have a population of 600,000 - many communities do not want to take loans from government.
Region 9	Hawaii has had more challenges due to staffing. The timing of statewide monitoring for PFAS has also affected states' ability to use the funding. For example, NV and HI have just begun widespread PFAS sampling through the state, whereas AZ and CA had more baseline data gathered before the emerging contaminants funding became available through BIL.
Region 10	So far, each state has indicated they will be applying for and have use for the full amount of DWSRF-EC funding.

Question: Does your Region have any recommendations for EPA OW/HQ to improve IIJA DWSRF emerging contaminants guidance for state officials?

Region	Response
Region 1	See previous question. More comprehensive training and faster responses for EC questions that come from states and/or Regions would be extremely helpful.
Region 2	No.
Region 3	None.
Region 4	R4 does not have any recommendations for EPA OW/HW at this time.
Region 5	continue q and a document updates, provide examples of funded projects
Region 6	None.
Region 7	Continue to update EPA Regional offices of new innovative eligible DWSRF Emerging Contaminant projects.
Region 8	States benefit most from routine conversations with their colleagues (i.e. CIFA). EPA could host more webinars or in-person interactions for new state SRF staff.
Region 9	No recommendations for guidance at this time. We appreciate OW/HQ's efforts to assist Regions in answering questions from states as they come up.
Region 10	Improve guidance for how to reach small systems and disadvantaged communities. Make guidance available for other ECs of high concern like cyanobacteria from harmful algal blooms and manganese.

Follow-Up Survey

In addition to the above original survey, we asked Regions 2 through 9 several follow-up questions. The follow-up survey was not sent to Regions 1 and 10 because of testimony gathered during site visits and interviews. Regions 2 and 8 did not respond to the follow-up survey; therefore, they are not included in the follow-up survey below.

Question: Prioritizing projects on IUPs [intended use plans]. Specifically, were there questions on how to prioritize PFAS focused projects versus projects related to other emerging contaminants?

Region	Applicable to your Region? Yes/No	If Yes, what is the cause for this challenge	If Yes, what is the effect for this challenge	If Yes, How Your Region Addressed this Challenge
3	No	No Response	No Response	No Response
4	No, This task is performed at the state level with program oversight by Regional staff in accordance with program guidance. The Region has been able to answer state questions from the guidance provided.	No Response	No Response	No Response
5	No	No Response	No Response	No Response
6	No Response	No Response	No Response	No Response
7	No	N/A	N/A	N/A
9	No	No Response	No Response	No Response

Statement: Meeting the disadvantaged community minimum requirement of 25 percent funding level and/or other disadvantaged community issues.

Region	Applicable to your Region? Yes/No	If Yes, what is the cause for this challenge	If Yes, what is the effect for this challenge	If Yes, How Your Region Addressed this Challenge
3	No	No Response	No Response	No Response
4	No, This task is performed at the state level with program oversight by Regional staff in accordance with program guidance. The Region has been able to answer state questions from the guidance provided.	No Response	No Response	No Response
5	No	No Response	No Response	No Response
6	No Response	No Response	No Response	No Response

Region	Applicable to your Region? Yes/No	If Yes, what is the cause for this challenge	If Yes, what is the effect for this challenge	If Yes, How Your Region Addressed this Challenge
7	No	N/A	N/A	States modified their definition to meet the disadvantaged community requirement
9	No	No Response	No Response	No Response

Statement: Questions regarding if PFAS focused projects will still be eligible for this funding if PFAS becomes regulated.

Region	Applicable to your Region? Yes/No	If Yes, what is the cause for this challenge	If Yes, what is the effect for this challenge	If Yes, How Your Region Addressed this Challenge
3	No	No Response	No Response	No Response
4	No, project eligibility is first performed at the state level with program oversight by Regional staff in accordance with program guidance. It has been clear that PFAS projects will remain eligible for funding from the emerging contaminant BIL funding streams once regulatory thresholds for PFAS are established.	No Response	No Response	No Response
5	No	No Response	No Response	No Response
6	No Response	No Response	No Response	No Response
7	No	N/A	N/A	N/A
9	No	No Response	No Response	No Response

Statement: How to handle inter-SRF transfers between CWSRF and DWSRF and vice versa.

Region	Applicable to your Region? Yes/No	If Yes, what is the cause for this challenge	If Yes, what is the effect for this challenge	If Yes, How Your Region Addressed this Challenge
3	Yes there were some questions but all were quickly answered. Region 3 states are only considering transferring CWSRF-EC to DWSRF-EC.	Prior transfers were mostly done between the State's Funds; BIL-EC transfers require EPA to transfer the grant dollars. States were unfamiliar with the new process for BIL grants.	None. So far, no state in Region 3 has decided to transfer EC. One State had some difficulty identifying CWSRF-EC projects but that was resolved.	We explained the process of transferring grant dollars when the states asked. Also, Region 3 staff have been conducting outreach to help identify CWSRF-EC projects.

Region	Applicable to your Region? Yes/No	If Yes, what is the cause for this challenge	If Yes, what is the effect for this challenge	If Yes, How Your Region Addressed this Challenge
4	Inter-SRF fund transfers has not been a problem for Region 4. The region follows the established transfer procedures issued and developed by OW in coordination with OCFO and OGD. Region 4 has successfully made, and is in the process of making, emerging contaminant inter-SRF fund transfers in multiple Region 4 states.	This is a non-standard procedure under the grant award umbrella, which requires close coordination with the OCFO staff and regional Grants Management Official (GMO).	Statute require the award of funds to the grantee before the transfer can be requested, which in turn slow the time funds are available for loans.	R4 pre-plans this actions before the grant is awarded to mitigate the time need for the transfer action.
5	Yes	New process to transfer funds; Internal delays in getting OCFO to transfer funding from CW to DW;	Delay in ability to award the grants until transfer is complete	Elevated the issue if delays get excessive
6	No response	At least in my experience with DWSRF BIL EC grants thus far, I have mainly run into challenges when it comes to CWSRF/DWSRF inter-SRF transfers when it comes to communicating with State agencies. The main cause for this challenge would be some of the States not being aware of how the transfer process works.	As for the effect of the challenge, having to explain the transfer process and get everyone on the same page has led to delays in getting some of these grants out.	To address this issue, we have had staff meetings going over how to conduct a transfer, and shared that knowledge with our State partners
7	Yes	Unable to find CW EC projects	Must transfer CW EC funds to DW EC program	Transferred EC funds
9	Yes	Statutory 33% ceiling for transfers between the CWSRF and DWSRF.	Because of the amounts of the allotments between CW EC and DW EC and the fact that the 33% ceiling is calculated based on the DW allotment, many states could transfer 100% of their CWSRF EC funds to DWSRF EC,	We advised states that they needed to stay within the 33% limit. States interested in transferring from DWSRF EC to CWSRF EC only transferred a portion of funds, keeping within the statutory ceiling.

Region	Applicable to your Region? Yes/No	If Yes, what is the cause for this challenge	If Yes, what is the effect for this challenge	If Yes, How Your Region Addressed this Challenge
			however, states could not transfer 100% of their DWSRF EC to CWSRF EC.	

Statement: Questions related to using the funding for non-regulated emerging contaminants that are not listed on the contaminant candidate lists 1–5.

Region	Applicable to your Region? Yes/No	If Yes, what is the cause for this challenge	If Yes, what is the effect for this challenge	If Yes, How Your Region Addressed this Challenge
3	No	No Response	No Response	No Response
4	This has not been an issue for Region 4. As needed, questions related to non-regulated emerging contaminants are elevated to the HQ's SRF programs.	None	None	N/A
5	No	No Response	No Response	No Response
6	No response	No Response	No Response	No Response
7	No	N/A	N/A	N/A
9	Yes	There are non-regulated emerging contaminants not explicitly listed on the CCLs that may co-occur with CCL-listed contaminants where states have infrastructure needs.	States reach out to the Region to discuss eligibility for specific projects where they have questions.	We work with HQ on a case-by-case basis to evaluate eligibility where there are questions.

Agency Response to Draft Report



OFFICE OF WATER

WASHINGTON, D.C. 20460

October 3, 2024

MEMORANDUM

SUBJECT: Response to Office of Inspector General Draft Report OA-FY23-0072, *EPA Guidance for Infrastructure Investment and Jobs Act Drinking Water State Revolving Fund Emerging Contaminants Should Be Clarified Before More States Spend Funds*, dated September 3, 2024

FROM: Bruno Pigott, Principal Deputy Assistant Administrator

TO: Sean O'Donnell
Inspector General

For: Best-Wong,
Benita

Digitally signed by Best-Wong, Benita
Date: 2024.10.03
08:37:33 -04'00'

Thank you for the opportunity to review and respond to the Office of Inspector General's draft report titled, *EPA Guidance for Infrastructure Investment and Jobs Act Drinking Water State Revolving Fund Emerging Contaminants Should Be Clarified Before More States Spend Funds*, Project No. OA-FY23-0072, dated September 3, 2024.

The U.S. Environmental Protection Agency is pleased that the OIG identified that nine out of ten EPA Regions found the Office of Water's guidance on *Bipartisan Infrastructure Law* emerging contaminant funding for the Drinking Water State Revolving Fund to be clear and comprehensive.¹ However, we are disappointed that the draft report's title does not accurately reflect this positive result and instead implies that the EPA Regions did not find the agency's guidance to be sufficient and clear. A more appropriate title is suggested in attached technical comments.

¹ Please note that *Bipartisan Infrastructure Law* is used interchangeably with *Infrastructure Investment and Jobs Act* in this response memorandum. Likewise, "states" is used as an umbrella term to encompass the fifty-one entities, Puerto Rico and the fifty United States, participating in the Drinking Water State Revolving Fund Program.

Moreover, the one EPA Region that identified concerns about the clarity of the agency’s guidance during the OIG evaluation in 2023, EPA Region 1, has questioned in their attached comments on the draft report the relevancy and recency of the evidence and findings presented in the draft report, concluding that subsequent clarifications, training, and technical support provided by the Office of Water have resolved concerns noted in the OIG’s 2023 survey.

We are also concerned that the draft report fails to recognize the central role that states play in designing and managing their DWSRF programs to reflect the needs of their states, consistent with the DWSRF program’s authorization in Section 1452 of the *Safe Drinking Water Act* and the purpose of the BIL appropriation. State managers are in the best position to understand local water system needs and emerging contaminant problems in their state and thereby evaluate and prioritize DWSRF emerging contaminants projects. The EPA’s March 2022 *Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law* memorandum provides effective and sufficient guidance, consistent with Congressional direction in the BIL appropriation, on how to define emerging contaminants and on Congressional intent to prioritize PFAS-focused projects. The EPA’s memo highlights the flexibility provided to states and assistance recipients to address a wide variety of local water quality and public health challenges, including determining priorities and selecting projects. An action by the EPA to “clarify” for states “how to prioritize projects” would run counter to the statutory role for states to develop intended use plans and select projects that best fit the needs of their states, consistent with the BIL and the SDWA.

As further highlighted below, the Office of Water disagrees with Recommendation 1, agrees with Recommendations 2 and 3, and is providing suggested corrective actions for your consideration. The EPA has attached two documents, including technical comments from the Office of Water as well as a response from EPA Region 1 on the draft report.

AGENCY RESPONSE TO RECOMMENDATIONS

OIG Recommendation 1

Provide clarification on how to prioritize per- and polyfluoroalkyl substances and other emerging contaminant projects in state intended use plans.

EPA Response to OIG Recommendation 1 – Disagree

The Office of Water disagrees with Recommendation 1 and suggests deleting this recommendation as it is unnecessary and inappropriate.

The Office of Water believes that such clarification is unnecessary because, as noted in the draft report and mentioned above, the OIG indicated that nine out of ten Regions “felt that the guidance was clear” on this issue. Further, the draft report mentions that only two of the 51 states had remaining questions after reading the guidance. Based on the OIG’s own findings, the vast majority of EPA Regions and states do not need further clarification on prioritizing PFAS and Emerging Contaminant projects.

Also, as noted above, the Office of Water believes that providing further “clarification on how to prioritize [PFAS] and other emerging contaminant projects in state intended use plans” would be incongruent with the EPA’s statutory role under SDWA and BIL. The SDWA and the BIL provide a prioritization *framework* for DWSRF funding. For example, Section 1452(b)(3)(A) of SDWA provides factors for states to consider when prioritizing projects, such as evaluating the risk to human health, ensuring SDWA compliance, and assisting systems that are most in need based on state affordability criteria. The statute requires that states use these factors, to the maximum extent practicable, to prioritize the use of all DWSRF funds a state receives. For the BIL Emerging Contaminant funds specifically, the BIL appropriation states that the purpose of these funds is “to address emerging contaminants in drinking water” with a “focus” on PFAS projects. However, the law did not limit the use of these funds exclusively to PFAS-focused projects.

States have applied the EPA’s March 2022 [Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law](#) memorandum and, consistent with federal and state law and incorporating their expertise in the drinking water infrastructure-related needs of their states, created a prioritization method for the BIL Emerging Contaminant DWSRF funding. Neither the statute nor the EPA provide strict, fixed directions about how each state should solicit for, rank, and score each project. Instead, the statute and the EPA’s related guidance provide a framework through which states apply their best professional judgement to prioritize DWSRF funding in their state. The EPA understood that more strict, fixed, and prescriptive guidance would be incongruent with its statutory role in the program. States have the best information about the public health challenges they face on the ground, and specific ranking criteria that work at a national level might lead to reduced public health protection in specific states.

In addition to the memorandum described above, the EPA provided further guidance on how to prioritize DWSRF BIL Emerging Contaminant projects in online [BIL SRF Questions and Answers](#). These Q&As include questions highlighting how DWSRF BIL Emerging Contaminant projects should be ranked on project priority lists. Additionally, since the passage of BIL in November 2021, the Office of Water has led 12 BIL SRF 201 Trainings, which include a lengthy section on emerging contaminant funding and how to prioritize projects, and the Office of Water conducted a training webinar titled [Drinking Water Bipartisan Infrastructure Law Emerging Contaminants Funding Options](#) in January 2023. Slides from this Emerging Contaminant-focused webinar, mentioned in the regional responses to the OIG survey, are available for review by states and the EPA.

OIG Recommendation 2

Provide supplemental guidance to EPA regions and the states on processing transfers between the Drinking Water State Revolving Fund and Clean Water State Revolving Fund involving Infrastructure Investment and Jobs Act funds to address emerging contaminants.

EPA Response to OIG Recommendation 2 – Agree

The Office of Water agrees with Recommendation 2, but requests removing “and the states” as it is the EPA Regions alone that handle the transferring process between funds.

Proposed Corrective Action:

The Office of Water proposes the following corrective action to satisfy this recommendation:

- The Office of Water will work with the Office of Grants and Debarment and appropriate EPA Regional personnel to further clarify existing guidance on DWSRF capitalization grant transfers. Most transfers occur in the summer, and this update will be ready to assist the EPA before the next typical transfer period. **Expected Completion: March 31, 2025.**

OIG Recommendation 3

Provide training on the supplemental guidance to EPA Regional and state agency staff in a timely manner.

EPA Response to OIG Recommendation 3 – Agree

The Office of Water agrees with Recommendation 3 so far as it is consistent with Recommendation 2 and requests adding “additional” before “training” to reflect the significant outreach and training that has already occurred, which is documented on the OIG survey forms.

Proposed Corrective Action

The Office of Water proposes the following corrective action:

- The Office of Water will host a virtual meeting with the EPA Regions on capital grant transfer issues within a month after the revised transfer guidance for Recommendation 2 is released. **Expected Completion: May 1, 2025.**

Thank you again for the opportunity to respond to the recommendations in the draft report OA-FY23- 0072. If you have any questions regarding this response, please have your staff contact OW’s Audit Follow-Up Coordinator Carla Hagerman, at Hagerman.Carla@epa.gov.

ATTACHMENTS (2)

1. Technical Comments on the OIG Draft Report OA-FY23-0072
2. EPA Region 1 Comments on OIG Draft Report OA-FY23-0072

cc: Beth Schubert, OIG
Charles Brunton, OIG
Benita Best-Wong, OW/DAA
Macara Lousberg, OW/IO
Janita Aguirre, OW/IO
Nancy Grantham, OW/IO
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