

**U.S. Environmental Protection Agency, Region 9**  
**Clean Water Indian Set-Aside Emerging Contaminant Program**  
**Guidelines and Procedures for Funding Assistance**  
**November 2024**

EPA Region 9 is pleased to issue these guidelines and procedures for funding assistance from the Clean Water Indian Set-Aside (CWISA) Emerging Contaminant (EC) Program. This program provides funding for federally recognized Tribes within EPA Region 9 for wastewater infrastructure under the Bipartisan Infrastructure Law (BIL). The funding will be used to address emerging contaminants in wastewater infrastructure systems. Funds are generally awarded through direct grants to Tribes or interagency agreements with the Indian Health Service (IHS). For certain projects (e.g., emerging contaminant sampling and Preliminary Engineering Report development), Region 9 also plans to offer EPA-directed in-kind assistance (i.e., contractors) to tribes to provide more flexibility and reduce administrative requirements. Matching funds are not required for CWISA EC projects.

President Biden signed the Bipartisan Infrastructure Law (BIL) on November 15, 2021, which included over \$50 billion to strengthen the nation’s drinking water and wastewater systems. The BIL includes more than \$868 million to address Tribal drinking water and wastewater infrastructure needs over fiscal years 2022-2026.<sup>1</sup> These guidelines will be utilized to consider project awards utilizing new BIL funding programs for drinking water and wastewater projects.

A total of \$6.8 million will be available through FY26 to support eligible projects in Region 9 that address emerging contaminants in wastewater. To provide direction for identifying emerging contaminant projects and associated planning activities that are eligible under the CWISA EC Program, EPA has created guidance and a project proposal form.

Per Section 518 of the Clean Water Act (CWA), EPA administers the CWISA Program in cooperation with the Indian Health Service (IHS) Sanitation Facilities Construction Program. EPA regions use the IHS Sanitation Deficiency System (SDS) database to identify projects for CWISA program funds. CWISA Guidance and the June 2023 *Implementation of the Tribal Water Infrastructure Appropriations in the Bipartisan Infrastructure Law Memo* are available on EPA’s website.<sup>2</sup>

EPA recognizes that information about the presence and extent of emerging contaminants might be limited for Tribal wastewater utilities. Projects should focus on the identification of emerging contaminants and supporting preliminary engineering activities that will lead to a well-scoped and ready-to-fund projects. IHS SDS prioritization system has not previously focused on emerging contaminants in wastewater. Therefore, projects proposed for CWISA EC funding **are not** required to be identified in the IHS SDS database.

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<sup>1</sup> [Implementation of the Tribal Water Infrastructure Appropriations in the Bipartisan Infrastructure Law Memo](#), p. 3

<sup>2</sup> <https://www.epa.gov/small-and-rural-wastewater-systems/clean-water-indian-set-aside-program>

**Project Award Timeline:**

Below is an outline of EPA’s anticipated funding timeline from receipt of project proposal to award date. Proposals are accepted on a rolling basis throughout the year and the timing of funding awards will be dependent upon when EPA receives the project proposal, and when the Tribe responds to EPA comments. Information requested in the initial proposals will include: 1) the CWISA EC Project Proposal Form, 2) Tribal government endorsement, and 3) a cost estimate. A Preliminary Engineering Report (PER) will also be required for construction projects. A PER should clearly describe the system’s present situation, analyze alternatives, and propose a specific course of action, from an engineering perspective. The analysis of alternatives must compare construction costs and operation and maintenance costs.

Proposals will be accepted throughout the year and will be evaluated as received. Due to the volume of actions processed near the end of the fiscal year, EPA award delays may occur for proposals received in July through September.

Table 1: Estimated Project Award Timeline

Proposal Submission Steps	
Estimated Timeframe	EPA Actions
Step 1: Tribe Submits Proposal	
2 months	EPA will review proposals for completeness and notify each applicant with requests for additional information.
Step 2: Tribe Responds to EPA Comments	
1 month	EPA reviews final submissions and notifies the Tribe of funding decision, along with guidance letters for projects to be funded through grants.
Step 3: Tribe submits final documents for Grant, Interagency Agreement, or In-Kind Services	
3 months	EPA processes and awards funds for projects.

Based on the actions and estimated timeframes above, it may take approximately 6 months after the initial project proposal is submitted to EPA to receive funding.

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**U.S. Environmental Protection Agency, Region 9**  
**Clean Water Indian Set-Aside Emerging Contaminant Program**  
**Guidelines and Procedures for Applying for Assistance**  
**November 2024**

## **I. Description of Program**

President Biden signed the Bipartisan Infrastructure Law (BIL) on November 15, 2021, which included over \$50 billion to strengthen the nation's drinking water and wastewater systems. The BIL includes more than \$868 million to address Tribal drinking water and wastewater infrastructure needs over fiscal years 2022-2026.<sup>3</sup>

These guidelines and procedures address funding assistance for the Clean Water Indian Set-Aside (CWISA) Emerging Contaminant (EC) Program. This new appropriation includes \$20 million over the next five years specifically to address emerging contaminants in wastewater. Of that \$20 million, a total of \$6.8 million will be available to support CWISA EC projects in Region 9.

This funding demonstrates an unprecedented commitment by Congress to address ECs in Tribal communities, including per- and polyfluoroalkyl substances (PFAS). Note that PFAS are not the only ECs that threaten water supplies and the environment, and projects that address other ECs will also be eligible for funding under this program.

### **A. Program History**

Per the Clean Water Act (CWA) Section 518, EPA administers the CWISA Program in cooperation with the Indian Health Service (IHS) Sanitation Facilities Construction Program. EPA regions use the IHS Sanitation Deficiency System (SDS) database to identify projects for CWISA program funds. CWISA Guidance and the June 2023 *Implementation of the Tribal Water Infrastructure Appropriations in the Bipartisan Infrastructure Law Memo* are available on EPA's website.<sup>4</sup>

EPA recognizes that information about the presence and extent of emerging contaminants might be limited for Tribal wastewater utilities. Projects should focus on the identification of emerging contaminants and supporting preliminary engineering activities that will lead to well-scoped and ready-to-fund projects. IHS SDS prioritization system has not previously focused on emerging contaminants in wastewater. Therefore, projects proposed for CWISA EC funding **are not** required to be identified in the IHS SDS database.

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<sup>3</sup> [Implementation of the Tribal Water Infrastructure Appropriations in the Bipartisan Infrastructure Law Memo](#)

<sup>4</sup> <https://www.epa.gov/small-and-rural-wastewater-systems/clean-water-indian-set-aside-program>

## **B. What types of projects can be funded through this program?**

Project types that are eligible under section 603(c) of the Clean Water Act and address emerging contaminants are eligible under this appropriation.<sup>5</sup> Section 518 of the Clean Water Act, applies to Clean Water Indian Set-Aside, not the Clean Water State Revolving Fund, this is particularly relevant for monitoring, planning and design as described in the project examples below.

- **Project assessment monitoring**<sup>6</sup>: Monitoring ECs for the purpose of field testing an innovative or alternative technology is eligible<sup>7</sup>. Monitoring in this capacity can be integral to increase confidence in design criteria and/or performance standards for addressing ECs and their ultimate discharge and point of disposal (e.g., land application of biosolids). Example eligible monitoring activities/costs for the purpose of field testing an innovative or alternative technology could include:
  - Purchasing and installing monitoring equipment, such as auto samplers.
  - Characterizing raw wastewater as a component of a field test or an engineering report to identify and select innovative or alternative technologies to address ECs.
  - Non-routine monitoring the fate of ECs throughout the treatment process (e.g., influent, effluent, sludge) to evaluate innovative or alternative technologies, including complete systems, unit processes, proprietary equipment and devices or modifications, and improvements of existing technologies. This can be done for up to one year.
  - After construction completion, routine monitoring and sampling for up to one year after construction completion are eligible.<sup>8</sup>
  
- **Planning and design**<sup>9</sup>: Identification of ECs and supporting preliminary engineering activities that may lead to well-scoped and ready-to-fund projects are eligible. Example eligible planning and design projects could include:
  - Preparation of a preliminary engineering report.
  - Development of planning and design documentation including collection of necessary data.

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<sup>5</sup> See EPA's *Overview of Clean Water State Revolving Fund Eligibilities*:

[https://www.epa.gov/sites/default/files/2016-07/documents/overview\\_of\\_cwsrf\\_eligibilities\\_may\\_2016.pdf](https://www.epa.gov/sites/default/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf)

<sup>6</sup> Per the 2022 and 2023 fiscal year appropriations: "[F]or fiscal year [2022 and 2023] notwithstanding the provisions of such subsections (g)(l), (h), and (1) of section 201 and section 518(c) of the Federal Water Pollution Control Act, funds reserved by the Administrator [for the CWISA program] may also be used to provide assistance: *solely for facility plans, design activities, or plans, specifications, and estimates for any proposed project for the construction of treatment works*" (emphasis added).

<sup>7</sup> See 40 CFR Appendix A to Subpart I of Part 35(b)A.1.k.

<sup>8</sup> See CWISA Program Guidance, Oct. 2015, Section IV.B: <https://www.epa.gov/small-and-rural-wastewater-systems/clean-water-indian-set-aside-program-guidance>.

<sup>9</sup> Per the 2022 and 2023 fiscal year appropriations: "[F]or fiscal year [2022 and 2023] notwithstanding the provisions of such subsections (g)(l), (h), and (1) of section 201 and section 518(c) of the Federal Water Pollution Control Act, funds reserved by the Administrator [for the CWISA program] may also be used to provide assistance: *solely for facility plans, design activities, or plans, specifications, and estimates for any proposed project for the construction of treatment works*" (emphasis added).

- Travel costs associated with planning and design, site inspections, and construction administration.
- **Potable and non-potable water reuse:** Water reuse/reclamation projects that might use advanced treatment (e.g., reverse osmosis, granulated activated carbon, or ion exchange) to remove PFAS or other ECs.
- **Wastewater treatment facilities:** Pilot/demonstration project to evaluate the efficacy of a particular wastewater treatment technology for ECs.
- **Biosolids:** Sampling of biosolids with ECs to assess type of treatment needed. Also eligible are design and construction of facilities for biosolids handling and disposal, such as equipment to support sludge drying, transportation, pelletization and/or land application.<sup>10</sup>
- **Stormwater:** Example eligible stormwater projects could include:
  - Publicly- or privately-owned EC projects that implement nonpoint source management programs established under Section 319 of the CWA.
  - Installation of stormwater controls designed to collect and capture emerging contaminants like 6PPD-quinone (a component of vehicle tires that is released as tires wear down) in stormwater discharges or PFAS in airport runoff.
  - Construction of structures at industrial facilities to cover PFAS-containing materials that would otherwise be exposed to and transported in stormwater.
  - Development of a stormwater plan to identify capital projects that address ECs.
  - Purchase and installation of EC sampling equipment for industrial and municipal stormwater.
  - Purchase and installation of mesh screens and containment systems designed to capture and remove microplastics from industrial and municipal stormwater.
  - Installation of stormwater controls designed to filter and remove microplastics from stormwater.
  - Purchase of a vacuum or vacuum-type system to pick up microplastics to prevent flushing into stormwater.
- **Other:** Example eligible surface water protection and landfill projects could include:
  - Equipment for the physical or chemical removal of HABs, for example, strategically placed aeration blowers to remove and control algal blooms or flocculant-based methods to facilitate algae removal.
  - Projects that can skim surface water to remove microplastics along with other plastic pollutants.
  - Landfill closure (e.g., capping) or landfill runoff and leachate collection and treatment that will reduce runoff contaminated with PFAS or other emerging contaminants.

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<sup>10</sup> See CWISA Program Guidance, Oct. 2015, Section IV.B: <https://www.epa.gov/small-and-rural-wastewater-systems/clean-water-indian-set-aside-program-guidance>.

- The modification/expansion of existing or construction of new publicly owned landfills (local and regional) primarily designed and permitted (per state and federal regulations) to accept POTW biosolids with emerging contaminants.

### ***C. Program Link to EPA's Strategic Plan***

Projects funded under this program support the strategic measures expressed by Goal 5 (Ensure Clean and Safe Water for All Communities), Objective 5.1 (Ensure Safe Drinking Water and Reliable Water Infrastructure), of the EPA Strategic Plan for 2022-2026 related to the provision of reliable wastewater infrastructure in Tribal communities. The program fits within the EPA Strategic Plan and its long-term performance goals: Goal 5.1.4 to provide access to basic sanitation for an additional 36,500 American Indian and Alaska Native homes and Goal 5.1.5 to provide 2,203 Tribal, small, rural, or underserved communities with technical, managerial, or financial assistance to improve operations of their drinking water or wastewater systems by September 30, 2026. In addition, the program will help to increase the number of American Indian and Alaska Native homes provided basic sanitation in coordination with other federal agencies.

## **II. Award Information**

EPA Region 9 is pleased to issue these guidelines and procedures for funding assistance from the Clean Water Indian Set-Aside (CWISA) Emerging Contaminants (EC) Program. This program provides funding for federally recognized Tribes within EPA Region 9 for wastewater infrastructure. The funding will be used to address emerging contaminants in the wastewater infrastructure systems.

A total of \$6.8 million will be available through FY26 to support eligible projects in Region 9 that address emerging contaminants in wastewater. To provide direction for identifying EC projects and associated planning activities that are eligible under the CWISA EC Program, EPA has created guidance and a project proposal form.

Funds are generally awarded through direct grants to Tribes or interagency agreements with the Indian Health Service (IHS) and for certain projects (e.g., emerging contaminant sampling and Preliminary Engineering Report development) Region 9 can provide EPA-directed in-kind assistance (i.e., contractors) to Tribes.

Region 9 expects costs for sampling projects to range from \$1,000 to \$20,000, planning projects to range from \$20,000 to \$200,000, and construction projects to range from \$100,000 to \$2,000,000.

For EPA-directed in-kind assistance, EPA contractors can provide direct technical assistance to Tribes to address ECs in wastewater, without needing to issue a grant or interagency agreement. Activities that can be achieved through in-kind assistance include, but are not limited to:

- Assisting Tribes with preliminary sampling and monitoring to identify and characterize contamination from emerging contaminants, including:
  - Developing EPA approved sampling and analysis and appropriate QA/QC plans,
  - Obtaining test kits and laboratory equipment, and connecting with certified laboratories,
  - Providing operator certification and training to support subsequent monitoring,
  - Developing a data collection and management strategy,
  - Conducting sampling and analysis and other laboratory related services.
  
- Developing projects to address emerging contaminants, including:
  - Assessing project alternatives, project planning and design, developing PERs and feasibility analyses, pilot testing treatment technologies to support treatment and/or remediation project implementation.
  
- Connecting Tribes with appropriate implementation support/funding, such as:
  - Identifying best suited funding/implementation sources as well as plan, develop, prepare, and submit funding applications or other supporting documents (such PERs) to IHS, EPA, or other funding sources for emerging contaminants projects.
  - Assisting Tribes with meeting fiscal, technical, and program requirements of IHS and EPA emerging contaminants grant programs.
  
- Providing technical assistance to help Tribes with project construction support for communities, such as:
  - Preparing bid documents and obtaining permits,
  - Supporting requests for IHS, EPA or other project support/funding and assisting with post construction plans and monitoring.
  - Project bid review, change order review, project inspection and domestic preference (Build America, Buy America (BABA)) and other applicable (e.g., NEPA, ESA, NHPA) compliance reviews.
  
- Providing technical assistance to help Tribes with post-construction support for communities, such as:
  - Developing operations manuals, and operator training, and other technical assistance to ensure proper operations of water and/or wastewater utility to address emerging contaminants where a construction or remediation project results in a new treatment technology, or changes to utility operation.

EPA reserves the right to partially fund proposals by funding discrete activities, projects, or phases of proposals, and may work with applicants to explore the availability of funding from other federal agencies, Tribal, or third-party sources to contribute to the total project cost. Funding for project proposals is not guaranteed and is subject to the availability of funds. EPA is not bound by any estimates in these guidelines and reserves the right to reject all proposals or applications and make no awards.



### III. Eligibility Information

#### ***A. What is an Emerging Contaminant?***

Emerging Contaminants (ECs) 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. These substances, microorganisms, or materials can include many different types of natural or manufactured chemicals and substances – such as those in some compounds of personal care products, pharmaceuticals, industrial chemicals, pesticides, and microplastics. A description of ECs for the purposes of CWISA financing can be found in Appendix B of EPA’s March 2022 Memorandum Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law.<sup>11</sup>

Contaminants with national recommended water quality criteria established by the EPA under CWA section 304(a)<sup>12</sup>, except for PFAS<sup>13</sup>, are not considered ECs. Therefore, nutrients (e.g., ammonia, nitrogen, and phosphorus), certain organics, and certain metals are not considered emerging contaminants.

#### ***B. Who is eligible to receive funding under this program?***

Only federally recognized Indian Tribes within EPA Region 9 may submit proposals. These entities are referred to as “Tribes” in this document. The CWISA EC program can fund a wide variety of water quality protection efforts that address known ECs, per the BIL appropriation language: “...funds provided under this paragraph in this Act shall be for eligible uses under section 603(c) of the Federal Water Pollution Control Act that address emerging contaminants.” EC funding eligibilities are anticipated to support the planning and design of projects that will ultimately receive funding for construction through the CWISA program.

EC projects **do not** need to be identified in the IHS SDS database, which is distinctly different from traditional CWISA infrastructure funded projects.

#### ***C. Are Matching Funds Required?***

Matching funds are not required.

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<sup>11</sup> [https://www.epa.gov/system/files/documents/2022-03/combined\\_srf-implementation-memo\\_final\\_03.2022.pdf](https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf)

<sup>12</sup> <https://www.epa.gov/wqc/national-recommended-water-quality-criteria-tables>

<sup>13</sup> Should EPA establish national recommended water quality criteria for any PFAS, projects that address those PFAS would still be eligible for CWISA EC funding provided by the Bipartisan Infrastructure Law.

## IV. Proposal Submission Process

### Step 1: Proposal Submission Information

To minimize the workload to Tribes, the proposal submission process will be divided into three steps. The first step involves the submittal of the initial project proposal package including: a) the Project Proposal Form (Attachment 1); b) the Tribal government endorsement; and c) the preliminary engineering report (PER) (standardized template in Appendix A), if applicable.

#### ***A. Project Proposal Due Date***

Project proposals will be accepted throughout the year on a rolling basis and will be evaluated as they are received.

Project proposals must include a Tribal government endorsement, the Project Proposal Form, and PER, if applicable. Proposals must be submitted to the following address:

E-mail one electronic copy of the proposal and any documentation to:  
Amita Muralidharan, [muralidharan.amita@epa.gov](mailto:muralidharan.amita@epa.gov).

Electronic files exceeding 8MB must be separated into emails not exceeding 8MB each. If you have difficulty submitting electronic documentation, contact Amita Muralidharan.

#### ***B. Project Proposal Contents***

1. **Project Proposal Instructions** - A Tribe may submit more than one project proposal under these guidelines. Each project proposal will be separately reviewed and considered for funding.

The Project Proposal Form is included as Attachment 1. Additional documents may be attached as necessary to ensure that EPA receives complete information to evaluate the project proposal(s). A project proposal for a construction project should include completed feasibility studies, preliminary engineering reports, rights-of-way documentation, and environmental documents if available.

2. **Tribal Government Endorsement** - The proposal must be submitted with a Tribal resolution or a Tribal government endorsement of the proposal (i.e., the Tribal leader's signature on the letter transmitting the proposal).
3. **Planning/Preliminary Engineering Report (PER) Projects** – In addition to items 1 and 2 above, when requesting funds to complete a PER, submit a detailed project proposal, a proposed budget, and a timeline for completion of the PER. The outcome of the planning project must be the development of a PER that utilizes the standardized PER template found in Appendix A.

4. **Construction Projects** – To receive consideration for construction funding, a PER that follows a standardized template must be submitted with the project proposal form. The standardized PER makes it easier for Tribes to receive funding from more than one federal source and simplifies coordination between federal agencies.

A PER should clearly describe the system’s present situation, analyze alternatives, and propose a specific course of action, from an engineering perspective. The level of effort and depth of analysis required for the PER are proportional to the size and complexity of the proposed project. See Appendix A for a standardized PER template. Include copies of any completed environmental documents, if available.

If EPA determines that a project’s PER is not adequate, EPA may award funds to complete a more comprehensive PER rather than construction funding. Once the project has an adequate PER, the Tribe can submit a proposal for construction funding during the next funding cycle.

To receive consideration for construction funding, the applicant must demonstrate that all necessary rights-of-way have been or will be secured prior to award of funds. EPA may award funds for work to secure rights-of-way, though CWISA EC funds cannot be used to purchase real property.

5. **Budgets** - For construction projects that are funded through an Interagency Agreement with the Indian Health Service, the proposed budgets may include allowances for Tribal administration, contingencies, and technical support services (e.g., including engineering and inspection). These allowances are based on the following percentages of estimated construction costs:

Tribal Administration	5%
Contingencies	10%
Technical Support Services	15% (including engineering and technical support)

If the technical support services or tribal administration costs exceed the above allowances, the applicant must provide written documentation to support the increased costs. Justification for increased tribal administration fees could include, but is not limited to, submitting a copy of a signed Memorandum of Agreement (MOA) between the Tribe and the Indian Health Service (IHS). Only actual costs incurred under the approved budget will be paid.

For planning projects that are funded through an Interagency Agreement, project proposals and budgets should identify the entity that will be performing each planning activity. The administrative and technical support costs should be captured in the individual line-item costs for each planning activity and should not be estimated as a percentage of construction.

### ***C. Draft Project Selection Letter***

EPA will use the information in the proposal package to place projects on a potential funding list using the funding methodology described in Section VI. After EPA reviews the project proposals received, each Tribe will be informed whether they will move forward with Step 2 of the funding process. The number of projects selected to move forward with the funding process will be dependent on the amount of funding available and the costs of the top projects. Tribes selected to move to Step 2 will receive comments on the proposal and requests for supporting documentation.

## **Step 2: Comments on Draft Project Selection and Final PERs**

The second step of the proposal submission process involves addressing any EPA comments. Tribal comments on the draft project selection letter will be due approximately 2 months after the date of that letter. Tribes must submit the following: response to any EPA comments, a revised PER as necessary, and any additional supporting documentation or endorsement requested by EPA.

### ***A. Comments on the Draft Project Selection Letter***

Each Tribe will receive a draft project selection letter. If a project is determined to be ineligible, the Tribe may submit additional information on the project to support eligibility and EPA will consider any additional information provided when finalizing the project funding list.

### ***B. Preliminary Engineering Report***

The Tribe must also address any EPA comments on the preliminary engineering report (PER). If the comments are substantial in nature, the PER may need to be revised. If the comments are minor, a brief addendum to the PER addressing each of the comments may suffice.

## **Step 3: Grant Application/Interagency Agreement/EPA-Directed In-Kind Assistance Process**

EPA will provide notification when projects are selected to move to Step 3, the formal grant application, interagency agreement, or EPA-directed in-kind assistance process. Invitation to apply (or submit a Project Summary) is not a guarantee of funding. Deadlines must be met and the workplan and budget and grant application, or interagency agreement request must be approved by the EPA Project Officer. For grants, the EPA Region 9 Grants Management Officer will make the final award determination. For interagency agreements, the EPA Interagency Agreement Shared Service Center (IASSC) will make the final award determination.

For projects to be funded by grants, guidance letters will include: 1) the amount of funding available for the project, 2) links to the grant application packet for grant-funded projects, 3) any final comments on the PER, and 4) the date by which the completed grant application must be submitted to EPA. For projects funded through a grant, the federal Standard Form 424 (SF-

424) grant application, other required forms, as well as a workplan and budget, must be submitted via grants.gov.

For projects to be funded by interagency agreements, a Project Summary prepared by Indian Health Service must be submitted to EPA.

For EPA-directed in-kind assistance, EPA contractors can provide direct technical assistance to Tribes to address ECs in wastewater, without needing to issue a grant or interagency agreement. Additional information will be provided if a project is selected for this type of assistance.

## V. Funding Process

Region 9 anticipates that there will be sufficient funding for eligible projects to investigate and plan for addressing CWISA EC. We plan to later fund construction projects through our base CWISA Program. However, if a CWISA EC project is fully scoped, planned, and ready for construction, Region 9 will consider that project for EC funding.

To assist in the scoping of eligible CWISA EC projects, Region 9 may offer in-kind assistance. This may include investigating unknown contaminants or developing preliminary engineering reports.

The funding flowchart below outlines the process of determining project eligibility and is intended to streamline funding. Boxes in italics (green) represent investigation and planning projects and boxes in bold (blue) represent construction projects.

## VI. Funding Methodology

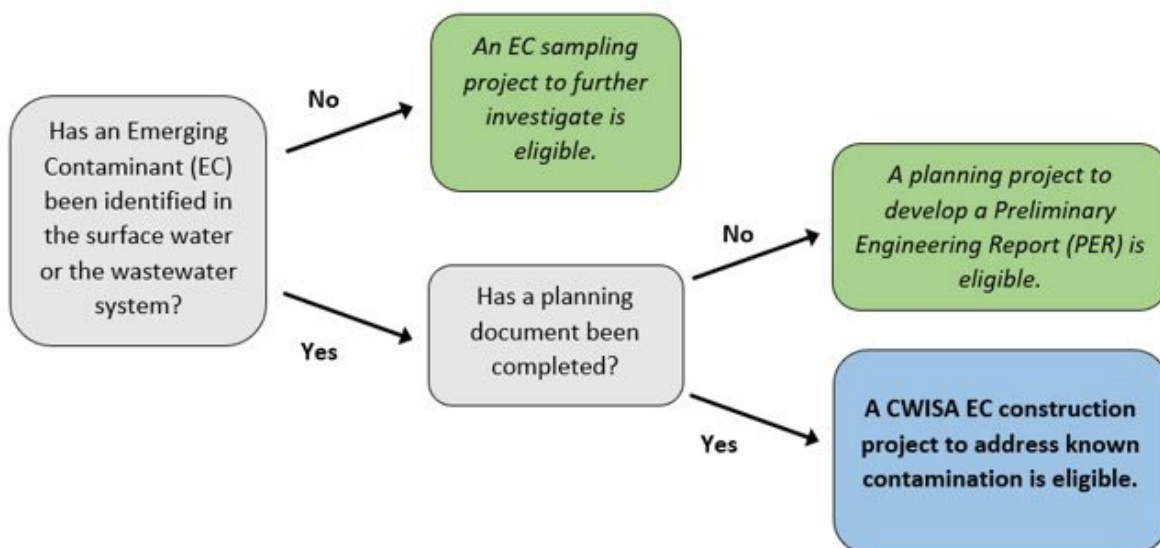


Figure 1: The funding methodology flowchart outlines the process of determining project eligibility. (Green) Boxes with italic text represent investigation and planning projects and (blue) boxes with bold text represent construction projects.

## Text-Equivalent of the CWISA EC Funding Methodology Graphic

Text-equivalent of the CWISA EC Funding Methodology graphic is intended for visually impaired readers and outlines the process for determining project eligibility and is intended to streamline funding.

### Has an Emerging Contaminant (EC) been identified in the surface water or the wastewater system?

- **No:** An EC sampling project to further investigate is eligible.
- **Yes:** Has a planning document been completed?
  - **No:** A planning project to develop a Preliminary Engineering Report (PER) is eligible.

*Yes: A CWISA EC construction project to address known contamination is eligible.*

## VII. Award Administration Information

**Regulations** governing the award and administration of grants can be found at 2 C.F.R. Parts 200 and 1500, and 40 C.F.R. Part 33.

**Quarterly Progress Reports** are required for all projects. Quarterly reports should describe project activities and provide the EPA Project Officer with information about project development including the status of the timeline and budget for meeting the environmental outputs and outcomes.

**Financial Status Reports (FSRs)** – For grants, an interim FSR is required annually and a Final FSR must be submitted within 90 days after grants expire.

**Terms and Conditions:** Examples of Grant Programmatic Conditions and Interagency Agreement Programmatic and Administrative Conditions are included in Appendix B and Appendix C. Sample Grant Administrative Conditions can be found online at <https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2018>

**Environmental Reviews conducted by IHS under interagency agreements with EPA:** For interagency agreements between EPA and IHS, IHS shall be the lead agency in environmental review.

**Environmental Reviews conducted by EPA under wastewater infrastructure grants awarded directly to Tribes:** EPA will conduct an environmental review of a project funded through a wastewater infrastructure grant under the Agency's Voluntary NEPA Policy. The NEPA process may include public participation, mitigation measures (e.g. monitoring measures), etc. Any NEPA review must be conducted prior to award of projects for construction; however, a voluntary NEPA analysis can be funded for a planning project with the preparation of an Environmental Information Document.

**Federal Cross-Cutting Authorities:** For interagency agreements, IHS shall be the lead agency responsible for complying with the Federal cross-cutting authorities (e.g. the National Historic Preservation Act, the Endangered Species Act, etc.). For grants EPA awards directly to Tribes, the recipient must comply with the applicable Federal cross-cutting authorities before the grant is awarded. For projects using iron and steel, manufactured products (non-ferrous), and construction materials, grant applicants must demonstrate Build America, Buy America (BABA)

Act compliance by submitting a certification letter asserting that all manufacturing processes for the purchased product occurred in the United States. EPA has the authority to waive the BABA requirement and to issue [waivers](#) on a case-by-case basis. Grant recipients must maintain documentation for products received at the project site.

**Greening Grants Policy:** EPA has implemented Grants Policy Issuance (GPI) 17-01, *Sustainability in EPA Assistance Agreements*, that encourages voluntary efforts to incorporate sustainability practices into EPA grant funded programs and projects. When grant workplans are developed, EPA Project Officers will work with Tribal staff to identify potential ways for the Tribe to carry out EPA funded work in an environmentally sustainable way. The Policy includes numerous examples of sustainability practices, including environmentally preferable purchasing, green building, green meetings, and alternatives to travel.

## VIII. Agency Contacts

For general information about this program, please contact:

Amita Muralidharan  
Clean Water Indian Set-Aside Emerging Contaminants Program Coordinator  
U.S. Environmental Protection Agency  
75 Hawthorne Street (WTR-4-4)  
San Francisco, CA 94105  
Phone: 415-947-4140  
E-mail: [muralidharan.amita@epa.gov](mailto:muralidharan.amita@epa.gov)

We encourage you to work with your EPA water infrastructure project officer to discuss potential project proposals and funding eligibilities. Your infrastructure project officer will be your primary point of contact for project scoping, funding proposals, and project oversight.

To discuss project proposals, please contact the appropriate person listed below.

### **EPA Tribal Water Infrastructure Project Officers:**

Geographic assignments for infrastructure Project Officers are aligned with Indian Health Service Area and District Offices within Region 9.

[Sara McGillewie](#), Project Officer (213) 244-1859  
**Reno and Western Arizona Districts**

[Amita Muralidharan](#), Project Officer (415) 947-4140  
**Redding and Sacramento Districts**

[Adam Ramos](#), Project Officer (415) 972-3450  
**Navajo Nation Area**

[Nancy Sockabasin](#), Project Officer (415) 972-3772

**Tucson Area**

[Madeleine Tango](#), Project Officer  
**Escondido District**

(619) 874-0568

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## **Appendix A: Preliminary Engineering Report Template**

A project submitted for construction funding must have a completed preliminary engineering report (PER) that follows a standardized template. The standardized PER makes it easier for Tribes to receive funding from more than one federal source and simplifies coordination between federal agencies.

A PER should clearly describe the system's present situation, analyze alternatives, and propose a specific course of action, from an engineering perspective. The analysis of alternatives must compare construction costs and operation and maintenance costs.

**The level of effort and depth of analysis required for the PER are proportional to the size and complexity of the proposed project.**

The linked [PER template](#) must be used.

## Appendix B: Sample Grant Programmatic Conditions

Grant recipients must comply with the [current applicable EPA general terms and conditions](#). These terms and conditions are in addition to the assurances and certifications made as part of the award, terms and conditions, and restrictions reflected on the official assistance award document.

- A. **Performance Reporting.** The recipient agrees to submit quarterly project performance reports to the EPA Project Officer beginning three months after initiation of the agreement that include information for the following:
1. A comparison of actual accomplishments to the objectives established in the assistance agreement work plan for the period. Where the output of the project can be quantified, a computation of the cost per unit of output must be provided if requested by EPA;
  2. The reasons why established goals were not met, if appropriate; and
  3. Additional pertinent information, including, when appropriate, analysis and explanation of cost overruns or high unit costs.

Significant developments. Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the recipient must inform EPA or subrecipient as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

The quarterly progress reports shall also include a written report on all tasks currently in progress and planned for the next quarter. The quarterly reports shall be due thirty (30) days following the end of the quarter. Quarters shall be defined as January-March, April-June, July-September, and October-December.

- B. **EPA Access.** EPA, Inspectors General, and the U.S. Government Accountability Office or any of their duly authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts in accordance with 2 CFR §200.336. The right also includes timely and reasonable access to the recipient's personnel for the purpose of interview and discussion related to such documents.

- C. **Procurement.** All procurement actions under this grant must comply with the procurement requirements in 2 CFR Part 200, *Procurement Standards*; 2 CFR Part 1500, and 40 CFR Part 33

Recipient must also ensure that every purchase order or other contract includes any clauses required by Federal statutes, regulations, and Executive Orders pursuant to 2 CFR §200.326.

- D. **Toxic and Hazardous Substances.** The recipient shall implement all mitigation measures pursuant to 29 CFR 1926.1101 to minimize asbestos exposure.
- E. **As-builts.** The recipient shall prepare up-to-date “as-builts” of the project and submit copies to the EPA Project Officer upon completion of the project.
- F. **Changes of Scope.** Minor changes in the project work that are consistent with the objectives of the project and within the scope of the grant agreement do not require the execution of a formal grant amendment before the recipient's implementation of the change. However, the amount of the funding provided by the grant agreement may only be increased by a formal grant amendment. The recipient must obtain EPA written approval before implementing changes which alter the project performance standards; change the scope or objectives of the project or substantially alter the design of the project; significantly delay or accelerate the project schedule; substantially alter the facilities plan, design drawings and specifications, or the location, size, capacity, or quality of any major part of the project.
- G. **Budget category changes.** Prior written approval is required for all budget category transfers from non-construction to construction or vice-versa or within such categories, and for requests for no-cost extensions.
- H. **Unforeseeable changes.** The recipient shall notify the EPA Project Officer at any point in time should any significant developments arise, such as those that might alter or delay the project, as soon as the recipient becomes aware of such developments.
- I. **Plan of Operation.** The Recipient shall provide a draft plan of operation covering at least five years for the project(s) funded by this grant. The draft plan of operation shall address development of: operation and maintenance manuals; and an adequate budget for operations, staffing, route maintenance, and replacement costs. The plan of operation must be finalized and implemented (as applicable) prior to the completion of the grant funded projects. A draft plan of operation shall be submitted at 75% of expenditure of grant funds.
- J. **Project Performance Standards: One-Year Report.** On the date one year after the initiation of operation of the project, the recipient shall certify to the EPA Project Officer whether the project meets the project performance standards. If the EPA Project Officer or the recipient concludes that the project does not meet the project performance standards, the recipient

shall submit the following: (1) A corrective action report which includes an analysis of the cause of the project's failure to meet the performance standards (including the quantity of infiltration/inflow proposed to be eliminated), and an estimate of the nature, scope and cost of the corrective action necessary to bring the project into compliance; (2) The schedule for undertaking in a timely manner the corrective action necessary to bring the project into compliance; and (3) The scheduled date for certifying to the EPA Project Officer that the project is meeting the project performance standards. The recipient shall take corrective action necessary to bring a project into compliance with the project performance standards at its own expense.

- K. **Applicability.** The recipient agrees that it will expeditiously initiate and complete the project work for which assistance has been awarded under this agreement in a timely manner and in accordance with all applicable provisions of 2 CFR Part 200, and applicable EPA policies. The recipient warrants, represents, and agrees that it and its contractors, subcontractors, employees, and agents will comply with: (1) all applicable provisions of 2 CFR Part 200, and applicable EPA policies; and (2) any special conditions set forth in this assistance agreement or any assistance amendment.
- L. **Archeological Resource.** Should the discovery of a potential archeological or historical resource occur during construction, all work in the area of the find will stop and a qualified archeologist will be called in to evaluate the situation and make recommendations to the EPA Project Officer. The EPA Project Officer will then determine what will be necessary for construction to proceed.
- M. **Termination.** This award may be terminated for failure of the Recipient to make sufficient progress so as to reasonably ensure completion of the project within the project period, including any extensions. The EPA Project Officer will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period, and/or the availability of funds necessary to complete the project.
- N. **Cross-Cutting Requirements.** The recipient must comply with federal cross-cutting requirements. These requirements include, but are not limited to the Disadvantaged Business Enterprises requirements found at 40 CFR Part 33; nondiscrimination statutes, including Title VI of the Civil Rights Act of 1964, and EPA's implementing regulations found at 40 C.F.R. Parts 5 and 7; OSHA Worker Health & Safety Standard 29 CFR 1910.120; the Uniform Relocation Act; National Historic Preservation Act; Endangered Species Act; Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333) the Anti-Kickback Act (40 USC 276c); and Section 504 of the Rehabilitation Act of 1973, as implemented by Executive Orders 11914 and 11250.
- O. **Cybersecurity:**

(a) The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable Tribal law and policy cybersecurity requirements.

(b) (1) EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure. For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) no later than 90 days after the date of this award and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.331(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

## **Appendix C: Sample Interagency Agreement Programmatic and Administrative Conditions**

### **Interagency Agreement between the U.S. Environmental Protection Agency and the Indian Health Service for [Tribal Wastewater Facilities] Construction**

#### **I. ADMINISTRATIVE TERMS AND CONDITIONS**

This Interagency Agreement (IA) provides for the coordination between the Environmental Protection Agency (EPA) Region 9 Clean Water Indian Set-Aside Program and the Indian Health Service (IHS) Sanitation Facilities Construction Program. This IA applies to funds appropriated to the EPA under section 518 of the Clean Water Act, which the EPA intends to transfer to the IHS under this IA.

If the actual cost of providing the facilities is less than the amount in the Project Documents, the IHS Area Office and the EPA Region, in consultation with the Tribe, will coordinate the disposition of the remaining funds. The parties may decide to increase the scope or identify another project for funding, or the IHS may return the unused funds to the EPA. Any project changes agreed to by the parties must be reflected in the IA through an amendment prior to expiration of the IA and before allocating funds to a new project, unless the IHS decides to return the funds to the EPA. If the parties cannot come to agreement, the IHS will return the funds to the EPA.

Funds transferred by EPA to the IHS under this IA may only be used in agreements authorized by Indian Sanitation Facilities Act, 42 U.S.C. 2004a. IHS Area Offices may use up to 15 percent of the IA project funds allocated to them to support management and oversight of each project funded by this IA.

The IHS is approved to purchase equipment in accordance with its equipment management policies. The IHS will determine that the equipment is in the best interest of the government and is necessary for the performance of the projects under this IA. Disposition of the equipment will be subject to IHS equipment management policies or as specified in the Project Documents with no further accountability to EPA.

#### **A. Resolution of Disagreements**

Should disagreements arise on the interpretation of the provisions of this agreement or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement or interpretation is not reached within 30 days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

If a dispute related to funding remains unresolved for more than 30 calendar days after the parties have engaged in an escalation of the dispute, disputes will be resolved in accordance

with instructions provided in the Treasury Financial Manual (TFM) Volume I, Part 2, Chapter 4700, Appendix 10, available at <http://www.fms.treas.gov/tfm/index.html>.

## **B. Duration of Agreement and Termination Procedures**

This agreement shall continue in effect until IHS or EPA provides written notice of termination, or when a project (or projects) funded under this agreement are completed or are no longer needed for the purpose identified in the Project Documents. Any funds that are obligated up to and on the date of termination will remain obligated to the project(s) identified in this agreement. Notice shall be given to the other party at least 60 days in advance of a termination date.

As per section 4.3.2 of EPA's "Interagency Agreement Policies, Procedures, and Guidance Manual 2008" the total duration of the project period for an IA may not exceed 7 years unless (1) there is statutory or regulatory authorization for a longer period, (2) a signed waiver from an EPA Director, Office of Grants & Debarment (OGD), or designee, granting an exception is obtained, or (3) in the case of an allocation (appropriation) transfer, a shorter period is mandated, i.e., 5 years. This durational limitation includes both the original period of performance and any extensions. The initial determination of the appropriate length of the project period should take this limitation into account. (For example, an IA between IHS and EPA normally has a 5-year term. The IA can be extended upon approval of the parties for up to two more years for a total IA term of 7-years. An IA cannot be extended beyond the 7-year limit unless a waiver is granted by the EPA Director, Office of Grants & Debarment.) To exceed the 7-year policy limitation, a waiver request must be submitted in writing by the appropriate EPA Senior Resource Official to OGD. The OGD Director, or designee, may approve waivers on a class or individual basis because of national security concerns, circumstances of unusual or compelling urgency, unique programmatic considerations, or because the waiver would be in the public interest.

## **C. Sufficient Progress**

EPA expressly reserves the right to terminate the IA for failure to make sufficient progress so as to reasonably ensure completion of the project within the project period (as defined in Section I.B.), including any extensions. EPA will measure sufficient progress by examining the performance required under the Statement of Work, the time remaining for performance, and/or the availability of funds necessary to complete performance. Prior to exercising this right to terminate, EPA will follow the resolution procedures cited Section I.A.

## **D. Cost Collection upon Cancellation**

If the EPA cancels the order, the IHS is authorized to collect costs incurred prior to cancellation of the order plus termination costs, up to the total payment amount provided for under the agreement.

## **E. IAs with Contracts or Procurement**

The IHS will use its administrative policies and procedures including those under the Buy Indian Act provisions for direct federal acquisition, to implement and execute projects funded under this IA.

#### **F. Fiscal and Project Reporting Requirements**

The IHS will update its Sanitation Tracking and Reporting System (STARS) quarterly and provide a report in STARS that may be accessed by the EPA. The report will include at minimum, project-specific estimated expenditures and actual milestones achieved to date and will be available to the respective EPA Regional DWIG Program Coordinator and to the EPA Financial Management Center. The STARS will be updated by the 30th day following the end of a quarter, beginning with the first full reporting period after funds are received by the IHS.

#### **G. Audit Findings**

If an audit determines that any direct or indirect costs in a project funded under this IA are unallowable, the parties to this IA will be notified immediately following resolution of the audit and the IHS project account will be credited for ineligible costs.

## **II. PROGRAMMATIC TERMS AND CONDITIONS**

#### **A. Authority and Purpose**

The activities under this IA are being executed by the EPA pursuant to the Clean Water Act section 518. The services and facilities will be provided to the Tribe by the IHS under the Transfer Act, 42 U.S.C. 2001; Indian Sanitation Facilities Act, 42 U.S.C. 2004a; and Title III of Indian Health Care Improvement Act, as amended, 25 U.S.C. 1632.

#### **B. EPA Responsibilities**

1. The EPA Regional Office shall designate a representative to coordinate its participation in projects (Regional Program Coordinator). This representative shall formally advise the respective IHS Area Office of this designation.
2. As resources permit the EPA shall provide to the IHS and Tribes technical assistance as needed to successfully meet applicable program requirements.
3. The EPA Regional Office will ensure that the proposed projects are in accordance with the Clean Water Act, annual national guidance and the Clean Water Indian Set-Aside Program Final Guidelines and the Addendums.
4. EPA Regional Office will ensure that water collection and analysis methodologies (as applicable) are in accordance with the IHS/EPA jointly developed Quality Assurance Project Plan (QAPP).
5. EPA is responsible for any distribution within the EPA of the final technical and financial report provided to the respective EPA Regional Program Coordinator after the construction phase completion.
6. The EPA will not be a signatory on any Project Summaries or Memorandums of Agreement.



7. Where appropriate, EPA Regions shall provide comments to IHS Area Offices on the design and planning documents associated with projects funded by the IA within 30 days of receiving said documents.

8. EPA Regions shall monitor construction progress with: data from the IHS database, discussions with the IHS Area Offices and field site visits as necessary to ensure the level of expended funds is reasonable given the reported milestone dates. The EPA will consult with the IHS Area Office quarterly to discuss project status.

9. The EPA Regions will participate in the final project inspection, as deemed necessary and resources permitting. At project completion, the EPA Region will review the final technical and financial reports provided by the IHS Area Office and will initiate the necessary EPA close-out process.

10. The EPA Regions will acknowledge and respond to IHS Area invitations to participate in project activities within 10 days of receipt.

### **C. IHS Responsibilities**

1. The IHS shall implement and execute projects funded under this IA using its administrative policies and procedures as described in the Indian Health Manual, Part 5, Chapter 2, Memorandum of Agreement.

2. Project Documents (Project Summary/ Memorandum of Agreement or Arrangements as described in 42 U.S.C. 2004a) will be developed by the IHS Area Office, in consultation with the respective Tribes and respective EPA Regional Office.

3. Unless otherwise stipulated in the project documents, the IHS shall be the lead agency in assuring compliance with the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and other applicable Federal requirements only if the EPA funds are deposited in the IHS financial system.

4. Quarterly progress reports will be available to EPA through the IHS STARS system as stated in I.F., Fiscal and Project Reporting Requirements. Should the need arise and if the agencies mutually agree, the report may be supplemented.

5. The EPA Regional Office shall be formally notified of and invited to participate in the conceptual design meeting, the final plans and specification review, and the final inspections for projects in which EPA funds are utilized. IHS shall notify the EPA at least 30 business days prior to these events to allow optimal participation. Notification will be by e-mail.

6. As applicable, upon completion of each project under this IA, all rights title and interest to the provided sanitation facilities shall be transferred to the Tribe or to a responsible entity identified by the Tribe in accordance with the Project Documents. Each respective IHS Area Office shall make such arrangements as they determine necessary for the ownership and operation and maintenance of the completed facilities.

7. For each project funded under this IA, a final technical and financial report shall be provided no later than 365 days after construction phase completion to the respective EPA Regional Program Coordinator. Electronic copies of the report shall be provided to the EPA representatives identified above in Fiscal Reporting Requirements.

8. The water sampling umbrella Water Sample Collection and Analysis Quality Assurance Project Plan (QAPP) for Tribal Drinking Water and Wastewater Infrastructure Projects, developed jointly between EPA and IHS, will be implemented by IHS as applicable.

**10. Restrictions on FY17 Funding for Corporations with Unpaid Federal Tax Liabilities and Felony Convictions**

This interagency agreement (IA) obligates and transfers or advances EPA funds appropriated under Public Law 115-31 (the Consolidated Appropriations Act, 2017). As a result, this IA is subject to the provisions contained in the Consolidated Appropriations Act, 2017, Public Law 115-31, Division E, Title VII, Sections 745 and 746, regarding unpaid federal tax liabilities and federal felony convictions, which also have been included in prior appropriations acts.

The IHS is also subject to the same sections of the Act, in accordance with Department of Health & Human Services acquisition policies. The IHS will forward to the EPA Award Official, within 45 days, any documentation supporting an award where a written determination was made by the agency debarring and suspending official that suspension or debarment was considered but is not necessary to protect the interests of the Government.

**11. Advance Payment for Indian Health Service Interagency Agreements**

This Interagency Agreement is handled through Advance Payment and is tracked in IHS' Sanitation Tracking and Reporting System (STARS). Therefore, the reporting instructions in Administrative Condition F, *Fiscal and Project Reporting Requirements*, and Programmatic Condition C, *IHS Responsibilities*, Section 4, should be followed closely.

Financial Inquiries may be emailed to [CFC\\_Fed\\_Pay@epa.gov](mailto:CFC_Fed_Pay@epa.gov) or sent to the following address:

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