



July 26, 2022

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Delivered via email: defamail@epa.ohio.gov

RE: Formal Comments on Ohio's Draft PY2023 Drinking Water Assistance Fund (DWAF) Program Management Plan

Dear Mr. Rouch,

This letter provides formal comments on the [Draft PY2023 Drinking Water Assistance Fund Program Management Plan](#) (Draft PMP) published on June 22, 2022 by the Ohio Environmental Protection Agency (Ohio EPA).¹ These comments were prepared by the Environmental Policy Innovation Center (EPIC) in collaboration with the Ohio Environmental Council (OEC) and the Alliance for the Great Lakes (the Alliance),² and in consultation with additional co-signatories.

Ohio's Drinking Water Revolving Loan Fund (DWSRF), known as the Drinking Water Assistance Fund (DWAF), has consistently demonstrated several best practices for DWSRFs. These include

- allocating the maximum amount allowed from Ohio's federal DWSRF federal capitalization grant for additional subsidization for disadvantaged communities (DACs)³
- allocating the maximum amount allowed from the federal capitalization grant for additional, discretionary principal forgiveness (PF)⁴ and using these funds to incentivize projects, such as regionalization, that will yield long-term savings and drinking water security for Ohio communities
- providing further incentives, in the form of 0% interest loans, for regionalization, harmful algal blooms (HABs), PFAS, lead service line replacement (LSLR), and planning and design projects
- effectively leveraging Ohio's DWSRF funds so that, so far, Ohio EPA has not had to decline DWAF applications due to lack of available loan funds

¹ States are required to submit an Intended Use Plan (IUP) to the US Environmental Protection Agency (US EPA) as a condition of receiving federal capitalization grants to State Revolving Funds (SRFs) for water infrastructure. The Program Management Plan (PMP) for the Drinking Water Assistance Fund (DWAF) serves as Ohio's IUP for its Drinking Water State Revolving Fund (DWSRF).

² See section 1 for a description of authors' interest in the Draft PMP.

³ This additional subsidization has been awarded to communities found eligible for the Disadvantaged Communities Loan Program, per eligibility and distribution policies outlined in annual PMP for the DWAF.

⁴ Discretionary principal forgiveness (PF) is funding that states are allowed to allocate from their federal DWSRF capitalization grants that need not be reserved for communities that meet the state's definition of disadvantaged communities, but which can be used to support other priorities established by the state.

- implementing readiness-to-proceed requirements that facilitate DWAF staff efforts to ensure applicants are ready to proceed prior to awarding funds, understand barriers to readiness, and assist applicants to overcome barriers
- strategically using funds set aside from Ohio's federal DWSRF capitalization grant to provide technical assistance to small communities to help them apply for DWAF funds and address other priorities such as source water protection, wellhead protection, and asset management planning

The Draft PMP introduces some reforms to the DWAF Disadvantaged Community Loan Program. The Draft PMP also begins to sketch the terms of a new Lead Service Line Replacement (LSLR) program to utilize the substantial funds for LSLR allocated to Ohio from the federal Infrastructure Investment and Jobs Act (IIJA). Ohio EPA officials have advised us of their intention to publish amendments to the PY2023 PMP providing further details of the new LSLR program later this year, as well as PMP amendments elaborating a new Emerging Contaminants (EC) program to take advantage of the EC funds allocated to Ohio from IIJA appropriations.

These comments present our analysis of key policies proposed in the Draft PMP and recommendations for further improvement. In addition to commenting on policies in the PMP that determine how assistance for general drinking water infrastructure projects will be deployed from the DWAF, we offer inputs towards further development of the new LSLR program. **Section 1** outlines our interest in the DWAF, lead service line replacement, and equity and resilience concerns more broadly. **Section 2** explains why both small, rural communities and less affluent urban areas need additional subsidization, such as principal forgiveness (PF), to be able to address urgent water infrastructure needs without raising water rates to unaffordable levels. **Section 3** analyzes Ohio EPA's revisions to how it defines disadvantaged communities eligible for the Disadvantaged Community Loan Program and recommends further reforms to ensure that principal forgiveness for disadvantaged communities (DAC PF) will be more equitably distributed to all disadvantaged communities in Ohio. **Section 4** discusses Ohio EPA's use of allowable set asides from its federal capitalization grants, with a focus on the multiple benefits of maximizing set asides from the LSLR funds. **Section 5** offers recommendations on additional ways in which the DWAF could be deployed to address water affordability concerns. **Section 6** discusses Ohio EPA's readiness-to-proceed criteria for DWAF applicants, with a focus on public participation in project development.

Key Findings and Recommendations

Modifying the proposed methodology to determine eligibility for the Disadvantaged Community Loan Program to ensure more equitable distribution of principal forgiveness

- Ohio EPA should take guidance from the [report on water affordability in Ohio](#) commissioned by the Ohio Environmental Council and the Alliance for the Great Lakes to modify the water affordability criterion used to determine eligibility for principal forgiveness

- Ohio EPA should benchmark the water affordability criterion to the lowest quintile income (LQI) threshold for the community served by the proposed water project, rather than to the median household income (MHI).
- Alternatively, Ohio EPA could peg the water affordability to Ohio’s minimum wage.
- In addition to waiving the community size criterion for lead service line replacement and emerging contaminants projects, Ohio EPA should partially waive the community size criterion for general DWAF projects.
- Ohio EPA should use project-based spatial boundaries to define disadvantaged communities, to enable assistance to be directed to underserved neighborhoods within large water systems, as well as to ensure that small systems consolidated into larger systems do not lose access to principal forgiveness.
- Ohio EPA should consider adding relevant social determinants of health and social vulnerability indicators to criteria used to determine eligibility criteria for lead service line replacement projects.

Ensuring that technical assistance provided by set aside funds are aligned with equity and resilience goals

- Ohio EPA should review technical assistance programs funded by set asides from Ohio’s federal DWSRF capitalization grants to ensure alignment with the following objectives:
 - The DWAF meets the goal established in President Biden’s Executive Order 14008 of directing 40 percent of the benefits of funding to disadvantaged communities.⁵
 - The assistance accounts for and meets the needs of the residents of underserved, disadvantaged, and overburdened communities⁶ where they are, and ensures an opportunity for robust and open communication with community members.
 - The assistance lowers barriers to accessing funding, thereby substantially and measurably increasing the number of communities with access to the resources they need to provide safe, affordable water and protect their water sources.
 - The assistance enables small, rural, disadvantaged, and overburdened communities to implement high-quality projects providing cost-efficient, sustainable solutions to pressing water infrastructure needs that would otherwise either remain unaddressed or impose costs that would add to the rate burden of low-income households.
 - The assistance provides drinking water operators with the information they need to mitigate and adapt to climate change and natural hazards, especially in underserved, disadvantaged, and overburdened communities.

⁵ Exec. Order No. 14008, 2021. Available at <https://www.energy.gov/sites/default/files/2021/02/f83/eo-14008-tackling-climate-crisis-home-abroad.pdf>

⁶ U.S. EPA defines overburdened communities as “[m]inority, low-income, tribal, or indigenous populations or geographic locations in the United States that potentially experience disproportionate environmental harms and risks. This disproportionality can be as a result of greater vulnerability to environmental hazards, lack of opportunity for public participation, or other factors. U.S. EPA.” (2020) *EJ 2020 Glossary* [Online]. Available at <https://www.epa.gov/environmentaljustice/ej-2020-glossary>

- The assistance catalyzes long-term shifts in DWAF practices to ensure more equitable distribution of DWAF funds.

Setting aside additional set-aside funds from Ohio’s federal capitalization grant for lead service line replacement

- Ohio EPA should set aside the maximum 26% allowed by federal law from Ohio’s federal capitalization grant for lead service line replacement (LSLR) and use these funds to provide direct grants and other assistance to help public water systems (PWSs) accomplish a wide range of pre-construction LSLR tasks including:
 - developing or updating LSL inventories, including locating and mapping LSLs.
 - criteria and methodologies to prioritize which LSLs to replace first, including public engagement to develop and vet prioritization plans.
 - designing and planning LSLR projects, including technical planning, financial planning, and procurement of supplies and contractors.
 - outreach to building occupants and property owners to explain the need for LSL replacement, secure property owners’ permission to replace private-side LSLs, schedule work and arrange for access to the water meter.
 - developing or revising local ordinances governing LSL replacement.
- Maximizing the use of LSLR set-asides will have several beneficial impacts, including
 - Using set aside funds for pre-construction tasks will **reduce LSLR project costs** for which DWAF loans and DAC PF is sought.
 - Using set aside funds for pre-construction tasks will **expedite and facilitate the efficient undertaking of system-wide tasks** that lay the foundation for LSLR construction projects to be expeditiously and efficiently implemented.
 - Some states are concerned that public water systems will be reluctant to borrow funds for LSLR projects that will need to be repaid by ratepayers. Improving the loan-to-PF ratio will **improve the uptake of federal LSLR funds**.
 - Because 49% of LSLR funds must be provided as grants or PF, set aside funds are taken from the remaining 51% that would be provided as loans.
 - Maximizing the use of LSLR set asides will **shift the loan:PF ratio from 51% loan:49% PF to 33% loan:66% PF**.

Using Ohio’s Drinking Water Assistance Program to help ensure that drinking water is affordable for all Ohioans.

- Ohio EPA should include water affordability within the goals stated in the Program Management Plan for the Drinking Water Assistance Program.
- Ohio EPA should set aside additional funds from Ohio’s federal DWSRF capitalization grants to provide direct grants to public water systems to help them design, vet, and adopt more affordable rate structures.

Providing more clarity regarding readiness-to-proceed requirements, particularly expectations around public participation requirements

- Ohio EPA should explain in the Project Management Plan how readiness-to-proceed criteria are assessed and scored.
- Ohio EPA should take steps to ensure that local stakeholders understand Ohio EPA's readiness-to-proceed requirements relating to public participation in the development and approval of water infrastructure projects, and how they can influence local projects.

1. EPIC, OEC, the Alliance, and other signatories to these comments are committed to fostering the equitable distribution of SRF assistance in Ohio.

a. Ohio landscape related to infrastructure

Ohio, like all Great Lakes states, is dealing with antiquated, failing water infrastructure. According to the U.S. Society of Civil Engineers, "Ohio has an over \$27 billion need for water infrastructure upgrades over the next 20 years." Unfortunately, the federal government's share of funding for water infrastructure upgrades has "fallen to approximately 9%", down from 63% in the 1970s."⁷ With this substantial reduction in federal investments, water infrastructure upgrades and water treatment costs have largely fallen on the shoulders of community members.

b. Ohio landscape related to lead service line replacement

A big part of the water infrastructure discussion, in Ohio and much of the country, are the lead service lines that deliver our tap water and the replacement of those lines for the protection of public health, our economy, and the future of our communities. The American Medical Association (AMA) and Center for Diseases Control and Prevention (CDC) have determined there is no safe level of lead. The Ohio Department of Health has determined that elevated blood lead levels include the presence of 5 µg/dL of lead or more in the body.⁸ Unfortunately more than 3,500 children in Ohio were found to have elevated levels of lead in their blood in 2019.⁹ This is likely to be an underestimate, since not all lead-poisoned children are tested for lead poisoning. Impacts to children exposed to lead include neurological disorders, decreased cognitive behaviors, lower IQ, ADHD, and kidney disease and failure later in life, to name a few.

⁷ Ohio Section of the American Society of Civil Engineers. (2021) *Report Card for Ohio's Infrastructure* [Online]. Available at <https://infrastructurereportcard.org/>

⁸ Ohio Department of Health. (2022) *Prevalence of Confirmed Elevated Blood Lead Levels Among Tested Ohio Children* [Online]. Available at <https://odh.ohio.gov/>

⁹ Dissell, Rachel. (2019) 'Gov. Mike DeWine's Lead Advisory Committee holds first meeting in Cleveland', *The Plain Dealer*. Available at <https://www.cleveland.com/news/2019/10/gov-mike-dewines-lead-advisory-committee-holds-first-meeting-in-cleveland.html>

According to NRDC, Ohio has an estimated 650,000 lead service lines carrying water to families' homes, more than any other state except Illinois.¹⁰ While it is unclear how much money it will really take to fully remove lead service lines in Ohio, on average, it costs an estimated \$1,200 to \$12,300 for homeowners to replace lead service lines on their properties.¹¹ At least \$376.5 million for lead service line replacement from the IIJA is expected to be allotted to Ohio, beginning with \$71.3 million available for PY2023 projects.¹² These funds will be administered through Ohio's DWAF. While further funding will be needed to reach the goal of removing all lead service lines in Ohio, LSLR funds from the IIJA enable communities in the state to ramp up LSLR replacement. To make the best use of these funds, both the DWAF and communities with lead service lines need to develop LSLR programs that are both equitable and cost-efficient.

Congress has recognized the urgent need to remove lead service lines as a significant vector for lead poisoning by earmarking a substantial portion of the funds it appropriated for water infrastructure through the IIJA for lead service line replacement. It is essential that Ohio – which is estimated to have more lead service lines than any other state except Illinois – develops a strong LSLR program that will target these funds to disadvantaged communities that would struggle to remove lead pipes without sufficient subsidies, and provides technical assistance to enable communities throughout the state to take advantage of these funds to remove, once and for all, this pervasive risk to public health.

c. Ohio landscape related to water affordability

In November 2019, the OEC partnered with the Alliance for the Great Lakes and nationally recognized researcher, Dr. Manny Teodoro of the University of Wisconsin, to conduct a [study on Ohio Drinking Water and Sewer Affordability](#). In comparing water and sewer rates with for over 1,100 water utilities in Ohio with income levels, the report found that water affordability is an issue for people across the state of Ohio in both rural and urban communities, but the root causes are often different.¹³

In urban communities, drinking and sewer costs are disproportionately borne by communities of color which have been historically been redlined and disinvested for decades, leading to high income inequality. In turn, basic water and sewer costs are a higher proportion of disposable income making it unaffordable. In rural communities, small water utilities cannot reach economies of scale in managing

¹⁰ Sanchez, Jesus-Canchola. (2021) '650,000 Lead Pipes May Deliver Water to Homes in Ohio', *NRDC*. Available at <https://www.nrdc.org/>.

¹¹ U.S. EPA. (2019). *Strategies to Achieve Full Lead Service Line Replacement*. Washington, D.C.: U.S. Environmental Protection Agency. Available at https://www.epa.gov/sites/default/files/2019-10/documents/strategies_to_achieve_full_lead_service_line_replacement_10_09_19.pdf

¹² U.S. EPA. (2022) *Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law*. Washington, D.C.: U.S. Environmental Protection Agency, Appendix A. Available at https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf

¹³ Teodoro, Manuel. (2019) *Water & Sewer Service Affordability in Ohio Assessment & Opportunities for State Policy*. EJ Metrics. Available at https://greatlakes.org/wp-content/uploads/2019/11/AGLOEC-Affordability-Final-Report_1Nov2019.pdf.

infrastructure, which results in higher costs, and lower income residents end up paying a higher proportion of their income for basic water and sewer services.

d. The issues addressed in these comments are aligned with the missions and expertise of the signatory organizations.

The [Environmental Policy Innovation Center](#) (EPIC) is a non-profit think tank working nationwide to build policies that deliver spectacular improvements in the speed and scale of environmental progress. Equitable access to and distribution of State Revolving Funds (SRFs), expediting the removal of lead service lines, and encouraging green infrastructure and other nature-based solutions to water problems are among EPIC's focus areas of work.

The [Ohio Environmental Council](#) (OEC) is committed to protecting and enhancing the environment and the health of all Ohio communities. Our experts work daily to restore, protect, and strengthen the quality of life for families and communities—from the air we breathe and the water we drink to the food we eat and natural resources we enjoy. The majority of our staff are based in Columbus with regional staff and programs in each quadrant of the state. Visit <https://theoec.org/> for more information.

The OEC began working on the issue of lead in drinking water in 2016 when residents in Sebring, Ohio learned that their drinking water had been contaminated with elevated levels of lead for 5 months. The OEC worked with Ohio EPA leadership at the time to draft and pass a bill which strengthened the agency's oversight over drinking water treatment and shortened public notification timelines in the case of elevated levels of lead in drinking water. Since that time, advocates and health professionals have convened around the recommendation that all lead service lines across the country must be removed and replaced to ensure that the public is fully protected from lead in drinking water. It will take a significant investment of resources from federal, state and local leaders to meet this goal in the next decade.

The [Alliance for the Great Lakes \(the Alliance\)](#) works across the Great Lakes region to protect the Great Lakes. A nonpartisan nonprofit, the Alliance connects and empowers people to advocate, give back, and take action through advocacy and leadership; education and action; and research and analysis. Our [staff](#) are headquartered in Chicago, with additional offices in Michigan, New York, Ohio, Wisconsin, and Washington, DC.

All three organizations, as well as many of our co-signatories, have been working to build understanding and solution-oriented advocacy towards the equitable distribution of funding for water infrastructure, ensuring that drinking water is affordable for all, and removing lead service lines. We are pleased to submit these comments to help ensure that Ohio's distribution of the IIFA's historic influx of water infrastructure funding into state SRFs is aligned with these goals.

2. Without technical assistance, grants, and principal forgiveness from the DWAF, some Ohio communities will struggle to pay for their water infrastructure needs without raising water rates to unaffordable levels.

In this section, we note the factors that make it very hard for some Ohio communities to pay for much-needed water infrastructure repairs and upgrades without increasing water rates to unaffordable levels. The recent analysis of water affordability in Ohio commissioned by OEC and the Alliance found that, at current rates, a four-person household in Ohio's lowest quintile income bracket must pay an average of 10.6% of its disposable income and/or work ten hours at minimum wage to pay for a month of basic water and sewer service.¹⁴ Even for Ohioans who currently find their water bills affordable, however, concerns about rising water rates provide a disincentive to borrow funds to address pressing water infrastructure needs. As the burden of paying for water infrastructure ultimately falls on local ratepayers, the trade-off some water systems make to keep water rates affordable is that much-needed water infrastructure repairs and upgrades – such as replacing LSLs – remain unaddressed. To finally meet these needs, small and less affluent communities require additional subsidies in the form of grants or principal forgiveness. Moreover, these subsidies must be provided at a level that will enable the water system to undertake water infrastructure projects while keeping rates affordable.

In Ohio, there are two key reasons why communities struggle to pay for water infrastructure: (1) because they are very small water systems serving small rural communities, or (2) due to a legacy of racial discrimination. We discuss each of these below.

Many small rural water systems struggle to address water infrastructure needs.

Small water systems serving small rural communities often struggle to meet their water infrastructure needs due to limited technical and administrative capacity and a small ratepayer base across which to distribute costs. Water rates tend to be higher for smaller systems.¹⁵

Encouraging regionalization is one important strategy to address these concerns: the DWAF's prioritizes support for regionalization projects, through the use of discretionary PF as well as 0% interest loans. In addition, the DWAF supports small, rural water systems by providing technical assistance to small systems, using funds set aside from Ohio's federal DWSRF capitalization grants. These measures are necessary and appropriate, given the technical and administrative capacity limitations and small ratepayer base of small, rural water systems.

Ohio EPA also reserves 100% of DAC PF¹⁶ for general drinking water infrastructure projects for small water systems serving populations less than 10,000. While it is important to reserve a portion of DAC PF to assist small communities, these are not the only communities that face water affordability and related water infrastructure challenges. Approximately 28% of the public water systems (PWS) in Ohio serve

¹⁴ Teodoro. *Water & Sewer Service Affordability in Ohio*, pp ES1.

¹⁵ Teodoro, *Water & Sewer Service Affordability in Ohio*, pp 9.

¹⁶ We use the term "DAC PF" to refer to principal forgiveness reserved for communities that meet the state's definition of "disadvantaged communities".

populations greater than 10,000.¹⁷ These larger systems serve roughly 83% of Ohio’s population,¹⁸ and some communities served by these large systems face extreme financial hardship as well as decades of under investment in water infrastructure and other public services, as explained further below.

The story of water infrastructure funding reflects broader patterns of racial and socioeconomic inequity that must be recognized and remedied.

Broad patterns of racial and socioeconomic inequity in Ohio and throughout the US have been reinforced by the way that funding mechanisms for water infrastructure have changed over time. During the 20th century, small and large cities and towns benefited from a higher level of government investments in public water systems. Over the second half of the century, city water systems were extended to serve middle- and upper-income white households moving to the suburbs, while Black households and other communities of color were held back in older urban neighborhoods by systemic racist housing and employment practices. Not only was the expansion of urban water systems key to enabling “white flight,” but this expansion was largely paid for by the urban water ratepayers who were left behind with aging water systems built several decades earlier and in increasing need of repair and upgrades.

Heavy reliance on local ratepayers to bear the burden of funding water infrastructure compounds existing inequities. Formerly redlined neighborhoods are still predominantly under-resourced, face historical barriers to a healthy environment, and are majority people of color. The inability of these communities to pay for much-needed infrastructure maintenance and upgrades without raising water rates to unaffordable levels means that their needs remain unmet, subjecting these already vulnerable communities to greater risks of water insecurity and related health, social, and economic impacts.

Unless Ohio takes specific measures designed to undo these legacy impacts of historical discrimination, these inequities will continue to be reinforced through our water systems. As acknowledged in a recent report on water affordability convening water system operators and administrators as well as environmental justice¹⁹ (EJ) representatives:

“Because water services depend on capital intensive infrastructure that is long-lived, decisions related to infrastructure are hard to shift, and can have inordinately long-term impacts on a community. . . . Thus, water service decisions of the past have implications for decades. Historic inequities mean solutions to address affordability cannot be developed and implemented de novo, but rather must account for the realities of history or geography.”²⁰

¹⁷ Blue conduit. (2022) Personal Communication to Ohio Environmental Council. <https://blueconduit.com/>.

¹⁸ Blue conduit, Personal Comms to OEC.

¹⁹ US EPA defines Environmental Justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.” U.S. EPA. *Learn more about Environmental Justice* [Online]. Available at [https://www.epa.gov/environmentaljustice/learn-about-environmental-justice#:~:text=Environmental%20justice%20\(EJ\)%20is%20the,environmental%20laws%2C%20regulations%20and%20policies](https://www.epa.gov/environmentaljustice/learn-about-environmental-justice#:~:text=Environmental%20justice%20(EJ)%20is%20the,environmental%20laws%2C%20regulations%20and%20policies)

²⁰ Aspen Institute. (2022) *Toward a National Water Affordability Strategy: Report from the Aspen-Nicholas Roundtable Series on Water Affordability*. Washington, D.C.: Aspen Institute, pp 13. Available at <https://www.aspeninstitute.org/publications/toward-a-national-water-affordability-strategy-report-from-the-aspen>

This acknowledgement follows years and decades of advocacy by frontline communities – including several organizations, community groups, and residents affiliated with signatories to these comments – who have worked to address these legacy impacts and advocated for equitable access to safe, affordable drinking water.

Policies that determine how DAC PF is allocated – policies decided in the annual PMP for the DWAF – can help remedy these historic and continuing inequities.

3. Ohio EPA’s proposed methodology to determine eligibility for the Disadvantaged Community Loan Program should be modified to ensure more equitable distribution of DWAF assistance.

DWAF’s Disadvantaged Community Loan Program supports DWAF applicants that meet the program’s criteria for disadvantaged communities (DACs) in two important ways. First, DACs are eligible to receive up to 50% of project costs in the form of principal forgiveness (PF), which means that this portion of the award does not need to be repaid. DAC PF is allocated to eligible applicants ranked according to the Project Priority Ranking System set out in Appendix D of the Draft PMP until available PF is exhausted. In addition, the remaining loan is offered at a 0% interest rate.

The Ohio Administrative Code identifies criteria that must be considered when determining a DWAF applicant’s eligibility for the Disadvantaged Community Loan Program.²¹ These include consideration of the water rate burden²² (referred to in the code as “economic affordability”),²³ the presence of indicators of serious public health risks that would be addressed by the proposed project,²⁴ median household income (MHI) for the area served by the applicant water system relative to the statewide MHI,²⁵ the size of the population served by the applicant,²⁶ and the poverty rate in the area served by the applicant.²⁷ While the Code provides general guidance on how these criteria should be considered (e.g., noting that “applicants serving relatively small populations are more likely to be designated than those serving larger populations”), it grants substantial discretion to the Ohio Environmental Protection Agency (Ohio EPA) to determine precisely how these factors shall be weighted and considered to determine eligibility and allows Ohio EPA to consider other factors such as unemployment, population growth, and other socioeconomic factors as well.²⁸

[-nicholas-roundtable-series-on-water-affordability/#:~:text=The%20Aspen%20Institute%20%E2%80%93%20Nicholas%20Institute,for%20all%20households%20and%20communities](#)

²¹ Ohio Admin. Code §§ 3745-88-01, 3745-88-02.

²² Water Rate Burden refers to the proportion of a household’s income used to pay for home water needs including drinking water, wastewater, and stormwater management. Elevate. (2022) *Water Affordability: A Growing Challenge* [Online]. Available at <https://www.elevatenp.org/water/water-affordability-a-growing-challenge/>

²³ Ohio Admin. Code § 3745-88-02(1)(a).

²⁴ Ohio Admin. Code § 3745-88-02(1)(b).

²⁵ Ohio Admin. Code § 3745-88-02(1)(c).

²⁶ Ohio Admin. Code § 3745-88-02(1)(d).

²⁷ Ohio Admin. Code § 3745-88-02(1)(e).

²⁸ Ohio Admin. Code §§ 3745-88-02(1)(d)(emphasis added), 3745-88-02(2).

The degree to which a proposed project will address a serious public health risk is a primary factor considered in the Project Priority Ranking System. Ohio EPA has added unemployment rate to the DAC criteria identified in the Ohio Administrative Code (water rate burden, MHI, poverty rate) and explains how these criteria will be considered for DAC eligibility in Appendix E of the Draft PMP.

General Criteria	Program Value
Service Area Population*	Less than 10,000
Documented human health-related factors	Presence of indicators
Socio-Economic Benchmarks	Program Value
Median Household Income (MHI) less than or equal to statewide average	≤ \$58,116
Individuals with income below 200% of poverty level greater than or equal to statewide average	≥30.4%
Unemployment Rate (civilian) greater than or equal to statewide average	≥5.3%
Water and sewer rates compared to MHI greater than or equal to statewide benchmark	≥ 2.5%

Applicants for general drinking water funds must meet the community size criteria as well as at least 3 of the 4 socio-economic criteria. The Draft PMP clarifies that the population size criterion (service population below 10,000) will be waived for projects seeking assistance from the new LSLR and emerging contaminants (EC) programs, but LSLR and EC projects must still meet 3 of the 4 socio-economic criteria to be eligible for DAC PF from the LSLR and EC funding.

This section assesses the eligibility criteria proposed in the Draft PMP for the Disadvantaged Community Loan Program and suggests further reforms. We first assess the four socio-economic benchmarks proposed by Ohio EPA and suggest reforms to the water rate burden benchmark. Next, we assess the community size criterion. While we welcome the exemption to this criterion for LSLR and EC projects, we suggest that a partial waiver to this requirement should also be adopted for the base DWAF program. We also discuss the spatial boundaries that should be used when assessing these socio-economic factors. Finally, we recommend that Ohio EPA consider additional socio-economic factors for LSLR projects.

- a. The water affordability criterion should be benchmarked to the lowest quintile income threshold for the community served, not median household income. Alternatively, water affordability could be pegged to Ohio’s hourly minimum wage.**

We welcome the Ohio EPA’s proposed addition of the unemployment criterion, which helps to align criteria used to assess disadvantaged communities across Ohio’s Drinking Water and Clean Water SRF

programs. We also welcome the new benchmark for the poverty rate criteria, which aligns closely with guidance provided by US EPA on how to assess the prevalence of poverty for DAC determinations.²⁹

We also accept “MHI less than or equal to statewide average” as one of the four socio-economic criteria to be considered, but challenge the use of MHI as a benchmark for assessing water affordability. We propose instead that indicators used to assess water affordability should be pegged to either the lowest quintile income threshold or to the minimum wage rate for Ohio.

OEC and the Alliance commissioned a report on water affordability in Ohio from Manuel Teodoro, a widely recognized expert in the field.³⁰ This report, [Water & Sewer Service Affordability in Ohio: Assessment & Opportunities for State Policy](#), was published in 2019 and informs our analysis here.

Teodoro points out that, while MHI has been widely used as a benchmark for assessing water rate burden, the conventional %MHI approach is inappropriate for evaluating household-level water and sewer affordability because, among other things, “the conventional standard’s focus on median income misses the real subject of affordability concerns: low-income households.”³¹ As Teodoro explains, “[m]easuring affordability as a function of an entire community’s median household income obscures the impacts of rate setting on low-income customers, who likely face the greatest affordability challenges.”³²

In the 2019 Ohio water affordability report, Teodoro offers two alternatives for assessing water affordability. The first is described as an “affordability ratio” (AR) and considers a water customer’s household income, essential household expenses, and number of persons in the household as well as per-capita prices of water and sewer services for the system providing these services to the household. In assessing this AR metric to Ohio water customers, Teodoro focusses in particular on customers at the income threshold for the lowest quintile income (LQI) bracket, noting that “[a]n assessment of AR at the 20th income percentile (AR₂₀) in a given community provides a meaningful look at affordability for low-income customers,” and further noting that focusing on the LQI threshold “aligns with mainstream assessments of welfare economics, which typically identify the 20th percentile as the lower boundary of the middle class.”³³ At this income level, Teodoro explains, “‘working poor’ households have very limited financial resources, but may not qualify for many income assistance programs” and hence struggle to meet their basic needs, including paying for water and sewer bills that might be considered well within the bounds of affordability for those in higher income brackets.³⁴

²⁹ U.S. EPA, *March 2022 BIL Implementation Memo*, Appendix E.

³⁰ Teodoro, M. (2018) ‘Measuring Household Affordability for Water and Sewer Utilities’, *American Water Works Association*, 110(1) [online], 13-24. Available at <https://doi.org/10.5942/jawwa.2018.110.0002>

³¹ Teodoro, *Water & Sewer Service Affordability in Ohio*, 2.

³² Teodoro, *Water & Sewer Service Affordability in Ohio*, 2.

³³ Teodoro, *Water & Sewer Service Affordability in Ohio*, 3.

³⁴ Teodoro, *Water & Sewer Service Affordability in Ohio*, 3.

Teodoro proposes that, as a rule of thumb, concerns about the affordability of water costs should arise when the AR₂₀ analysis indicates that households at the LQI threshold are asked to pay more than 10% of their disposable income on water and sewer services combined.³⁵

Alternatively, Teodoro proposes that water affordability could be assessed in relation to the minimum wage, proposing that, as a rule of thumb, if water affordability concerns should arise, then the cost of water and sewer services requires more than one day of work per month at minimum wage to meet these costs.³⁶

Teodoro's analysis utilizes household-specific data including household income, household size, and the cost of other essential non-water living expenses, as well as average per capita costs for water. Because it would be difficult to implement a water affordability criteria for the DWAF that relies on such specific data inputs, we instead propose alternatives to Ohio EPA's proposed water affordability metric that draw insight from Teodoro's analysis but would rely on more readily available data.

We propose Ohio EPA modify the water affordability criterion used to assess eligibility for the Disadvantaged Community Loan Program in line with one of the following options:

(1) Water and sewer rates combined are greater than 5% of the upper income threshold for the lowest quintile income bracket in the community being assessed. While Teodoro set a threshold of 10% of disposable income for his AR₂₀ analysis, this 10% factor was in relation to an income estimate that was already modified to account for household size and other essential needs. Applying the recommended standard to a community at the statewide LQI threshold for Ohio according to recent estimates (\$20,900),³⁷ combined sewer and water costs in excess of \$87 per month would be considered unaffordable.

OR

(2) Water and sewer rates combined are greater than 8 times the state's hourly minimum wage. Ohio's hourly minimum wage is adjusted annually to account for inflation.³⁸ As such, it should be fairly straight-forward to benchmark the DWAF water affordability metric to the adjusted minimum wage in each annual PMP for the DWAF. Applying this standard using Ohio's current minimum wage (\$9.30), combined sewer and water costs in excess of \$74.40 per month would be considered unaffordable.

³⁵ Teodoro, *Water & Sewer Service Affordability in Ohio*, 20.

³⁶ Teodoro, *Water & Sewer Service Affordability in Ohio*, 21.

³⁷ Statistical Atlas. *Overview of Ohio (state)* [Online]. Available at <https://statisticalatlas.com/state/Ohio/Household-Income>

³⁸ Shields, Michael (2021, December) *Ohio minimum wage tracks inflation to \$9.30 in 2022* [Online]. Available at <https://www.policymattersohio.org/press-room/2021/12/28/ohio-minimum-wage-tracks-inflation-to-930-in-2022#:~:text=Ohio's%20minimum%20wage%20will%20adjust,keep%20pace%20with%20rising%20prices.>

It should be noted that either of these metrics would set Ohio's standard for water affordability at a higher monthly cost than the water rate burden metric recommended in US EPA guidance. US EPA recommends that combined water and sewer costs should be considered unaffordable when they exceed 2% of the 20th percentile household income for the community being assessed.³⁹ When calculated using Ohio's statewide LQI threshold, this comes to just \$34.80 per month. Either of our proposed metrics arrive at a lower combined water and sewer cost threshold than the water affordability metric proposed in the Draft PMP, however, which would be \$121.08 per month when calculated using the statewide MHI of \$58,116.

b. The community size criterion should be partially waived for general DWAF projects, in addition to being waived for lead service line replacement and emerging contaminants projects.

We endorse Ohio EPA's proposal to waive the community size criterion for LSLR and EC projects, and propose that this criterion should be at least partially waived for the general DWAF program as well.

In appropriating a substantial influx of water infrastructure funds through the IIJA, to be dispersed through the state SRF programs, Congress clearly intended for these funds to address the needs of disadvantaged communities in particular, as indicated by IIJA requirements that roughly half of the new appropriations be provided to disadvantaged communities in as grants or forgivable loans.⁴⁰ This requirement pertains to the IIJA's appropriation of supplemental funds for the general Drinking Water SRFs as well as the funds provided specifically for lead service line replacement.

As noted in section 2, both small rural water systems and historically underserved communities within large metropolitan water systems face unique and very real challenges with water affordability and paying for needed water infrastructure upgrades. To ensure that both are able to benefit from the substantial influx of federal funding for water infrastructure appropriated through the IIJA, we propose that a portion of DAC PF for the general DWAF should be reserved for small systems serving a population of less than 10,000, but that the remainder of DAC PF should be available to large cities and small rural communities alike.

If a portion of DAC PF is not reserved for small systems, there is a risk that, because larger systems are more likely to propose larger and therefore more costly projects, a few large systems could gobble up all available DAC PF, leaving nothing for small communities that also struggle with water affordability and the capacity to pay for much-needed water infrastructure upgrades. By the same token, reserving DAC PF entirely for small systems – as Ohio EPA proposes in the Draft PMP in relation to the general DWAF – leaves nothing for larger water systems which, in fact, serve some of the most disadvantaged communities in the state as measured by the socio-economic factors used to determine DAC eligibility.

³⁹ U.S. EPA, *March 2022 BIL Implementation Memo*, Appendix E.

⁴⁰ U.S. EPA, *March 2022 BIL Implementation Memo*, pp 21.

We propose that Ohio EPA should modify the Draft PMP to reserve something in the range of 40-60% of DAC PF for general DWAF projects nominated by PWSs serving populations under 10,000. The remainder of DAC PF would be available to both small and large systems, depending upon how projects are ranked in accordance with the Project Priority Ranking System.

c. Project-based spatial boundaries should be used to define DACs, to direct assistance to underserved neighborhoods within large water systems as well as to ensure that small systems consolidated into larger systems do not lose access to DAC PF.

The Draft PMP notes that, in consideration of program priorities such as regionalization, if a PWS with a population exceeding 10,000 nominates a project benefitting an area that meets the DAC socio-economic criteria, the project will be considered for the disadvantaged community loan program. In such cases, the socio-economic criteria is assessed for the area directly benefited by the proposed project, not the entire service area of the PWS nominating the project, using the most local data available (American Community Service (ACS) data for the community or census tract).

We strongly endorse this flexibility to assess DAC criteria on the basis of the community directly served by the proposed project. Many large metropolitan water systems serve neighborhoods with high poverty rates as well as relatively affluent areas. When economic or other indicators to assess disadvantage or affordability are averaged out across the entire area served by a water system, it can have the effect of excluding underserved, low-income urban neighborhoods from accessing SRF principal forgiveness and compound historic patterns of disinvestment. Allowing for more flexible spatial boundaries, to identify and direct assistance to underserved communities within a larger water system, is more equitable because this enables PF to be targeted to DACs within larger metropolitan water systems. U.S. EPA has affirmed that this practice is consistent with the Safe Drinking Water Act.⁴¹

d. Ohio EPA should consider adding relevant social determinants of health and social vulnerability indicators to the DAC PF eligibility criteria for lead service line replacement projects.

Social determinants of health. Social determinants of health (SDOH) are non-medical factors in the environments where people are born, live, learn, work, play, and age that affect a wide range of health, functioning, and quality-of-life outcomes and risks.⁴² Research shows that SDOH can be more important than health care or lifestyle choices in influencing health, with many studies suggesting that SDOH accounts for between 30-55% of health outcomes.⁴³ There are five domains within SDOH: economic stability, education access and quality, health care access and quality, neighborhood and built environment, and social community context. The County Health Rankings & Roadmaps by the University

⁴¹ U.S. EPA, *March 2022 BIL Implementation Memo*, pp 26-27.

⁴² U.S. Department of Health. (2022) *Social Determinants of Health* [Online]. <https://health.gov/healthypeople/objectives-and-data/social-determinants-health>

⁴³ World Health Organization. (2022) *Social Determinants of Health* [Online]. https://www.who.int/health-topics/social-determinants-of-health#tab=tab_1

of Wisconsin outlines a range of different factors that contribute to health outcomes to determine the health of counties nationwide.⁴⁴ This could potentially be a model for how these indicators come together to help determine where water infrastructure improvements are most urgently needed to address threats to human health.

Social vulnerability indicators. Social vulnerability refers to a variety of factors that have potential negative effects on a community's ability to prevent human harm and loss in the face of external stressors. Such stressors include natural or human-caused disasters, disease outbreaks, or environmental hazards.

The Social Vulnerability Index (SVI) is a tool that the Center for Disease Control (CDC) uses to determine the social vulnerability of every census tract, in order to help public health officials and local planners better prepare for and respond to emergency events like hurricanes, disease outbreaks, or exposure to dangerous chemicals.⁴⁵ The themes and social factors included in SVI are:

- Socioeconomic status (below poverty, unemployed, income, no high school diploma)
- Household composition & disability (aged 65 or older, aged 17 or younger, older than age 5 with a disability, single-parent households)
- Minority status & language (minority, speak English "less than well")
- Housing type & transportation (multi-unit structures, mobile homes, crowding, no vehicle, group quarters)

We propose that relevant SDOH and SVI indicators be added to criteria used to assess LSLR projects for DAC PF. Although any lead service line can pose a risk of exposure to lead from drinking water, studies have shown that certain SDOH and SVI indicators correlate with a higher incidence of lead poisoning when risk factors are present.⁴⁶

4. Ohio EPA should expand its use of set-aside funds, particularly for the new Lead Service Line Replacement Program, and ensure that use of these funds are aligned with equity and resilience goals.

Ohio EPA proposes to make good use of the option to set aside funds from Ohio's federal DWSRF capitalization grants for FFY 2022 to provide technical assistance to small systems. In the Draft PMP, Ohio EPA proposed to set aside the full 2% of the base, IJJA supplemental, and IJJA LSLR funds allowed under federal law to provide a wide range of technical assistance to small systems outlined in Appendix H of the Draft PMP. Ohio EPA also proposes to set aside 10% of Ohio's base capitalization grant for FFY 2022

⁴⁴ University of Wisconsin, County Health Rankings and Roadmaps. *County Health Rankings* [Online]. Available at <https://www.countyhealthrankings.org/explore-health-rankings>

⁴⁵ Agency for Toxic Substances and Disease Registry. *CDC/ATSDR SVI Frequently Asked Questions (FAQ)* [Online]. Available at https://www.atsdr.cdc.gov/placeandhealth/svi/faq_svi.html

⁴⁶ See, e.g.: Richardson, Jeanita. (2010) 'Poor, powerless and poisoned: The social injustice of childhood lead poisoning', *Journal of Children and Poverty*, 8(2), pp 141-157. Available at <https://doi.org/10.1080/10796120220120368>

for Public Water System Supervision as outlined in Appendix G. In addition, Ohio EPA proposes to set aside 8.51% of the base grant and 6.63% of the IIJA supplemental grant for local assistance and other state programs outlined in Appendix I.

Appendix I also outlines Ohio EPA's proposal to set aside 7.01% of the IIJA LSLR as an allowable set aside for "local assistance and other state programs" to (1) provide technical assistance to small community and not-for-profit non-transient, non-community public water systems by aiding systems in developing lead service line inventories through providing direct grants and third party contractor assistance, and (2) help public water systems comply with the Lead and Copper Rule (LCR) and be better positioned to apply for future lead replacement projects.

We endorse the utilization of set aside funds referenced above. We also urge Ohio EPA to set aside additional funds from the state's federal capitalization grants to support PWS efforts to ensure water affordability. Further details on how these funds could be used to support water affordability measures are described in section 5, below. We further urge Ohio EPA to maximize its use of allowable set asides from Ohio's IIJA LSLR grant, to support pre-construction activities for lead service line replacement, as described further in section 4.b., below. First, however, we offer a set of equity objectives with which technical assistance programs provided with DWAF funds should be aligned.

a. Technical assistance programs funded by set aside DWSRF funds should be aligned with equity principles.

Congress prioritized the equitable distribution of the supplemental SRF funds appropriated in the IIJA in two important ways. First, Congress required that 49% of supplemental funds for the regular DWSRF and LSLR, and 100% of supplemental funds for emerging contaminants, must be provided to communities as grants or forgivable loans. Second, Congress allowed for the same set-aside allowances provided in the Safe Drinking Water Act (SDWA) from annual DWSRF federal capitalization grants – for administration, technical assistance, state program management, and other capacity development – are allowed from the supplemental funds appropriated by the BIL.

State agencies charged with the administration of SRFs, as well as many potential applicants and beneficiaries of SRF funding, are often understaffed and overstretched – especially in the case of disadvantaged communities. Congress recognized that, to maximize the potential for both water infrastructure improvements and related equity improvements from the BIL's water infrastructure investments, it is necessary to also invest in state and local capacities to administer, access, and otherwise best utilize these funds. To help address these needs and ensure the equitable distribution and utilization of funding appropriated through the IIJA, states are allowed to set aside a portion of their federal DWSRF capitalization grants to provide technical assistance to PWSs. Assistance to PWSs can be in the form of direct grants, access to services from third-party consultants, guidance, training, or other technical assistance.

It is important to emphasize that any expanded technical assistance program for disadvantaged communities needs to go hand-in-hand with reforming how Ohio EPA defines disadvantaged communities for the distribution of Ohio EPA assistance. More broadly, any technical assistance provided should be guided by the following objectives:

- The DWAF meets the goal established in [Executive Order 14008](#) of directing 40 percent of the benefits of funding to disadvantaged communities.
- The assistance accounts for and meets the needs of the residents of underserved, disadvantaged, and overburdened communities where they are, and ensures an opportunity for robust and open communication with community members.
- The assistance lowers barriers to accessing funding, thereby substantially and measurably increasing the number of communities with access to the resources they need to provide safe, affordable water and protect their water sources.
- The assistance enables small, rural, disadvantaged, and overburdened communities to implement high-quality projects providing cost-efficient, sustainable solutions to pressing water infrastructure needs that would otherwise either remain unaddressed or impose costs that would add to the rate burden of low-income households.
- The assistance provides drinking water operators with the information they need to mitigate and adapt to climate change and natural hazards, especially in underserved, disadvantaged, and overburdened communities.
- The assistance catalyzes long-term shifts in DWAF practices to ensure more equitable distribution of DWAF funds.

b. Ohio EPA should maximize the use of allowable set-asides from federal LSLR funds for planning, inventories, outreach, and other pre-construction tasks.

Lead Service Line Replacement (LSLR) projects require many pre-construction tasks. These include:

- developing or updating LSL inventories, including locating and mapping LSLs.
- criteria and methodologies to prioritize which LSLs to replace first, including public engagement to develop and vet prioritization plans.
- designing and planning LSLR projects, including technical planning, financial planning, and procurement of supplies and contractors.
- outreach to building occupants and property owners to explain the need for LSL replacement, secure property owners' permission to replace private-side LSLs, schedule work, and arrange for access to the water meter.
- developing or revising local ordinances governing LSL replacement.

State administrators can set aside up to 26%⁴⁷ of the state's federal grants for LSLR, to be used for

⁴⁷ The Safe Drinking Water Act allows states to set aside up to 31% from DWSRF federal capitalization grants. 42 U.S.C. §300j-12(g),(k). This includes up to 15% for Local Assistance and other State Programs, provided that not more than 10% be set aside for any one of six subcategories. Five of these subcategories pertain to watershed and source water protection, which is not relevant to LSLR projects. 42 U.S.C. §300j-12(k). Therefore, States can set aside a maximum of 26% from their federal LSLR grants.

- Administration and technical assistance (4% of federal LSLR grant)
- Small System Technical Assistance (2% of federal LSLR grant)
- State Program Management (10% of federal LSLR grant) including
 - adopting and enforcing state regulations to ensure public water systems in the state meet standards that are at least as stringent as national primary drinking water regulations.
 - capacity development to ensure public water systems have technical, managerial, and financial capacity to comply with drinking water regulations including the federal Lead and Copper Rule (LCR).
- Local Assistance and other State Programs including
 - capacity development, including direct financial assistance to water systems (10% of federal LSLR grant).

Ohio EPA already proposes in the Draft PMP to use the full set aside allowed from the LSLR funds for small system technical assistance and also plans to use 7.03% of the set aside allowed under the “local assistance” category. **We urge Ohio EPA to set aside the maximum 26% of Ohio's LSLR grants allowed by federal law under all of the set-aside categories listed above. These funds should be used to provide direct grants and third-party contractor assistance to PWSs, along with relevant guidance, training, and other technical assistance to help PWSs accomplish the wide range of pre-construction LSLR tasks described above.**

Maximizing set asides for preconstruction LSLR tasks will yield multiple benefits:

- Using set-aside funds for pre-construction tasks will **reduce LSLR project costs** for which DWAF loans and DAC PF is sought.
- Using set aside funds for pre-construction tasks will **expedite and facilitate the efficient undertaking of system-wide tasks** that lay the foundation for LSLR construction projects to be expeditiously and efficiently implemented.
- Some states are concerned that public water systems will be reluctant to borrow funds for LSLR projects that will need to be repaid by ratepayers. Improving the loan-to-PF ratio will **improve the uptake of federal LSLR funds.**
 - Because 49% of LSLR funds must be provided as grants or PF, set-aside funds are taken from the remaining 51% that would be provided as loans.
 - Maximizing the use of LSLR set asides will **shift the loan:PF ratio from 51% loan:49% PF to 33% loan:66% PF.**

5. Ohio EPA should adopt new DWAF goals and grant programs aimed to ensure that drinking water is affordable for all Ohioans.

The analysis of water affordability in Ohio commissioned by OEC and the Alliance (described in section 3, above) found that, in 2019, a four-person Ohio household at the 20th income percentile had to pay an average of 10.6% of its disposable income and/or work 10 hours at minimum wage to pay for a month of

basic water and sewer service, indicating that water affordability is a substantial concern in Ohio for at least one-fifth of Ohio households.⁴⁸ The report also recommended several steps public water systems and state policymakers could take to address this concern. One recommendation is the consolidation of small water systems into larger water systems to achieve better economies of scale.⁴⁹ The DWAF already provides a number of important incentives for consolidation (or regionalization), as noted in section 2, above. Another key recommendation is for public water systems to adopt inclining block rate designs.⁵⁰ The DWAF could incentivize the adoption of inclining block rates, too, through the steps described in this section.

Ohio EPA should amend the PMP to add “Ensuring the affordability of drinking water services for every Ohio household” to DWAF program goals. Ohio EPA identifies a number of important goals for the DWAF in the Draft PMP including, for example, encouraging regionalization of small public water systems so they may take advantage of economies of scale, and promoting the continued development of Asset Management Programs.⁵¹ Regionalization and asset management are important ways to help utilities operate in a cost-efficient manner which in turn enables them to invest in needed water infrastructure upgrades. Similarly, ensuring water affordability is an appropriate goal for the DWAF. Keeping water affordable for all will help to stabilize water utilities and reduce the expense of managing delinquent accounts.

One way DWAF funds could be prioritized to help achieve the goal of water affordability is by setting aside additional funds under the administration and/or local assistance categories from Ohio’s base and supplemental federal capitalization grants to develop and fund a program providing direct grants to PWSs to help them design, vet, and adopt inclining block rate designs and other rate features that contribute to water affordability.

The Ohio water affordability report notes that rate structures that feature low fixed charges, minimum volume allowance, and/or progressive volumetric pricing help contribute to greater affordability.⁵² Rate structures across Ohio vary considerably across the state. Most systems apply fixed periodic charges plus volumetric charges; that is, customers pay a fixed price, plus a unit price for each unit of water. Inclining block rate structures charge progressively higher marginal prices as the volume of water used increases and are generally considered to be more supportive of water affordability objectives than declining or uniform rate structures.⁵³ Currently, however, only around 45% of Ohio drinking water systems use inclining block rates. Approximately 36% of systems use declining block rates, which charge lower

⁴⁸ Teodoro, *Water & Sewer Service Affordability in Ohio*.

⁴⁹ Teodoro, *Water & Sewer Service Affordability in Ohio*, 26-28.

⁵⁰ Teodoro, *Water & Sewer Service Affordability in Ohio*, 28-29.

⁵¹ See: Ohio EPA. (2022) *Drinking Water Assistance Fund (DWAF): DRAFT Program Year 2023 Program Management Plan*. Washington, D.C.: Ohio EPA, pp 8. Available at <https://epa.ohio.gov/static/Portals/29/documents/ofa/DWAF-PMP-Draft.pdf>

⁵² Teodoro, *Water & Sewer Service Affordability in Ohio*, 28.

⁵³ See also: Financing Sustainable Water. *Alternative Rate Structures* [Online]. Available at <https://www.financingsustainablewater.org/building-rates/alternative-rate-structures>

marginal prices as volumes increase, and approximately 30% apply the same volumetric price to each unit of water, regardless of the volume consumed.⁵⁴

Addressing affordability through rate design can improve affordability without placing additional administrative costs on utilities or burdens on customers (unlike customer assistance programs (CAPs), which require on-going administrative capacity and require customers to opt in and report and update financial and other CAP eligibility information to the utility). Administrative and technical capacity is required to design, vet, and adopt a new rate structure, however. The proposed affordability grant program using funds set aside from Ohio's federal DWSRF capitalization grants would offset these costs.

6. Further clarity regarding readiness-to-proceed requirements, particularly expectations around public participation requirements, should be provided in the PMP.

The DWAF's readiness-to-proceed criteria ensure that key planning components have been addressed prior to awarding DWAF assistance, and provide guidance and assistance to applicant PWSs regarding these requirements where needed. Further clarification should be provided in the Draft PMP regarding what the readiness-to-proceed requirements are and how they are assessed by Ohio EPA to arrive at a readiness-to-proceed score. We are particularly interested in the public participation requirement.

a. Ohio EPA should explain in the PMP how readiness-to-proceed criteria are assessed

Projects eligible to receive DAC PF are ranked for the distribution of PF according to their project score, as determined by the Project Prioritization Ranking System explained in Appendix D of the Draft PMP. Due to a limited amount of available DAC PF, only higher-ranking projects eligible for DAC PF will actually receive any PF. Therefore, the order of ranking projects is very important. In addition, projects eligible for DAC PF must also satisfy Ohio EPA's readiness-to-proceed criteria before DAC PF will be awarded.

Both the project score and a readiness-to-proceed score are indicated for the list of projects eligible for DAC PF provided in Appendix B of the Draft PMP. Whereas the project score is derived from the Project Priority Ranking criteria outlined in Appendix D, it is not clear how the readiness-to-proceed score is derived, or whether projects must meet a minimum readiness-to-proceed score in order to be awarded DAC PF.

The Draft PMP indicates that the following are considered when assessing projects' readiness to proceed:⁵⁵

- Approvable general plan, if applicable, submitted to Division of Drinking and Ground Waters
- Approvable project planning information submitted with project nomination

⁵⁴ The sum of these proportions is greater than 100% because some utilities' rate structures are inclining over some ranges of consumption and declining over others. Teodoro, *Water & Sewer Service Affordability in Ohio*, pp 8.

⁵⁵ Ohio EPA, *Drinking Water Assistance Fund (DWAF): DRAFT PY2023 PMP*, pp 4.

- Design underway
- Design complete
- Public Participation

However, the Draft PMP does not provide clear information on how these readiness-to-proceed elements are assessed in order to arrive at the readiness-to-proceed scores listed for DAC PF-eligible projects in Appendix B. A clear explanation of how readiness-to-proceed criteria are assessed and scored, as well as the cut-off score required for a project to be ready to proceed, should be provided in the Draft PMP.

b. Ohio EPA should take steps to ensure that local stakeholders understand DWAF readiness-to-proceed requirements relating to public participation in the development and approval of water infrastructure projects, and how they can influence local projects.

The inclusion of public participation requirements within DWAF readiness-to-proceed criteria provide an important lever to ensure that community based organizations, impacted residents, and other stakeholders have had appropriate opportunities to learn about, understand, vet, and influence water infrastructure projects funded by the DWAF. For this criterion to be impactful, however, it is essential that community groups and residents are sufficiently notified and understand public participation opportunities.

The Draft PMP notes that “public participation requirements vary depending on the anticipated project.”⁵⁶ In addition, the Draft PMP suggests that the PWSs proposing the project must “provide a description of outreach to the affected public and any responses received along with supporting documentation with the project nomination” and that “as appropriate, outreach may include information available online, press releases or news articles, and mailings or direct contact with current potential customers.”⁵⁷

Ohio EPA should provide further information to the public, through its website and in the Draft PMP, on the nature and extent of public participation requirements for various types of projects that might be funded by DWAF. Ohio EPA should also provide clear information on how the readiness-to-proceed requirement for public participation is assessed. The agency should also provide mechanisms whereby impacted residents or other stakeholders could provide relevant information to Ohio EPA, relevant to its assessment of whether this criterion has been sufficiently addressed. In developing further guidance, instructions, feedback mechanisms, and indicators for assessing public participation readiness-to-proceed requirements, Ohio EPA should keep in mind the objectives listed in section 4.a. of these comments.

⁵⁶ Ohio EPA, *Drinking Water Assistance Fund (DWAF): DRAFT PY2023 PMP*, pp 4.

⁵⁷ Ohio EPA, *Drinking Water Assistance Fund (DWAF): DRAFT PY2023 PMP*, pp 4.

Conclusion

Ohio has been a national leader in demonstrating several best practices for SRFs. We believe that the analysis and recommendations offered in these comments provide guidance on how Ohio EPA can extend this leadership by developing and modeling best practices for the equitable distribution of assistance from SRFs. We look forward to continued collaboration with Ohio EPA staff to see these recommendations implemented for the benefit of all Ohioans and the water systems we rely on.

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