



Analysis of the Alabama Drinking Water State Revolving Fund and the Clean Water State Revolving Fund

Preface

The State of Water Infrastructure

Water infrastructure in the United States is aging and in need of replacement, and many systems are already failing. Estimates suggest \$1.25 trillion ([\\$625 billion](#) for Drinking Water infrastructure and [\\$630 billion](#) for Clean Water infrastructure) is needed over the next 20 years to invest in wastewater, stormwater, and drinking water systems. Inadequate investments in water infrastructure has a significant negative impact on the health and well-being of communities, and disproportionately impacts low-income communities and communities of color.

The Bipartisan Infrastructure Law (**BIL**), passed in November of 2021, was the single largest federal investment in water infrastructure to date. Of the \$55 billion to be administered by the Environmental Protection Agency (**EPA**), \$43 billion is being distributed through the Clean Water State Revolving Fund (**CWSRF**) and the Drinking Water State Revolving Fund (**DWSRF**) over Federal Fiscal Year (**FFY**) 2022-2026. Although 49% of these funds must be distributed to “disadvantaged communities” as grants or forgivable loans (rather than loans that need to be repaid), communities with the greatest need still face [several barriers](#) in accessing these funds. Interventions to address these barriers include reforms to State Revolving Fund (**SRF**) policies that determine how SRF funds are allocated to communities within each state.

Why and How This Project Came to Be

In early 2023, PolicyLink started its three-year “Southern State Revolving Fund (**SRF**) Analysis and Advocacy Project” to help ensure equitable implementation of BIL SRF funds and base SRF programs in the South. In focusing on the South, we recognized that the racial and economic disparity in clean and affordable water is particularly pronounced there and that there was a need for strong community-based advocacy.

This project consists of two main phases:

- **Phase I: Analyses of DWSRF and CWSRF Across Seven Southern States** In early 2023, PolicyLink partnered with the Environmental Policy Innovation Center (**EPIC**) to train and support policy analysts across seven southern states (Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas) to conduct equity analyses of each state’s Clean Water and Drinking Water State Revolving Fund. These analyses are being used to inform advocacy in Years 2 (2024) and 3 (2025) of the project.
- **Phase II: Community-Based-Organization (CBO) Led Advocacy Across Four States** Of the seven states, PolicyLink selected four states—Alabama, Louisiana, Tennessee, and Texas—for Phase II (supporting CBO-led SRF Advocacy). These represent two states from EPA Region 4 (Tennessee and Alabama) and two states from EPA Region 6 (Louisiana and Texas). PolicyLink selected a cohort of 16 CBOs (4 CBOs per state) to undergo SRF Advocacy training (administered by River Network) and supports them in their state and regional SRF advocacy efforts.

This document is part of the larger series of SRF program analyses (Phase I deliverables) developed by individual consultants, with guidance from PolicyLink and the Environmental Policy Innovation Center (**EPIC**).

To learn more about the project and/or to access other material related to the state analyses, please see the project [site](#).

Acknowledgments

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- Alabama: Victoria Miller and Cindy Lowry, Alabama Rivers Alliance
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- Oklahoma: EPIC
- Tennessee: Grace Stranch and Anne Passino, Harpeth Conservancy
- Texas: Danielle Goshen, National Wildlife Federation

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Abbreviations Sheet

ADEM - Alabama Department of Environmental Management

ADPH - Alabama Department of Public Health

ARPA - American Rescue Plan Act

BIL - Bipartisan Infrastructure Law (also the Infrastructure Investment in Jobs Act)

CWA - Clean Water Act

CWNS - Clean Watershed Needs Survey

CWSRF - Clean Water State Revolving Fund

Disadvantaged community - per the requirements of the DWSRF, states are required to explain how they define “disadvantaged community” and must use this definition to identify applicants serving DACs. If a community is identified as a DAC, they may receive additional benefits for their projects, like additional subsidization in the form of principal forgiveness.

DWINSAs - Drinking Water Infrastructure Needs Survey & Assessment

DWSRF - Drinking Water State Revolving Fund

EC - Emerging Contaminants, usually refers to BIL funds distributed for projects aimed at mitigating emerging contaminants from drinking water or wastewater

EPA - Environmental Protection Agency

FFY - Federal Fiscal Year

GPR - Green Projects Reserve

IUP - Intended Use Plan

LSLR - Lead Service Line Replacement, usually refers to BIL funds distributed for projects to identify and remove lead service lines from drinking water systems

PPL - Project Priority List

SFY - State Fiscal Year

SRF - State Revolving Fund

SDWA - Safe Drinking Water Act

Introduction

This memorandum analyzes key components of Alabama's Drinking Water State Revolving Fund (**DWSRF**) and Clean Water State Revolving Fund (**CWSRF**). The CWSRF, established by amendments to the federal Clean Water Act (**CWA**) in 1987, and the DWSRF, established by the federal Safe Drinking Water Act (**SWDA**) in 1996, are the primary programs through which the federal government provides support for water infrastructure. While funding to capitalize the SRFs are provided by the federal appropriations, the policies that determine which projects and communities are prioritized to receive funding, including which communities receive additional subsidies in addition to low-interest loans, are determined at the state level.

The Infrastructure Investment and Jobs Act (**IJIA**), also known as the Bipartisan Infrastructure Law (**BIL**),¹ included an infusion of supplemental funds to the SRFs, including general supplemental funds for the DWSRF and CWSRF as well as additional funds designated for lead service line replacement and to address emerging contaminants such as polyfluoroalkyl substances (**PFAS**). The BIL funds for SRFs are appropriated for federal fiscal years 2022-2026, and these funds must be utilized by the states during state fiscal years 2023-2028.

The infusion of funds from the BIL has raised the profile of SRF programs, highlighting the need to distribute SRF assistance more equitably and to ensure that these funds are used to build climate resilience. More equitable distribution of SRF assistance is also a priority for the Biden Administration's Justice40 Initiative.² The next few years provide a critical window to influence state SRF programs, both to ensure that BIL funds are distributed equitably and to reform state SRF policies to better address equity and resilience goals beyond the BIL implementation time frame.

This memo explains key components of the state policy framework to community-based organizations and others working on environmental and equity issues in Alabama. It is intended to guide advocates in their efforts to engage state policymakers to make the allocation of Alabama's DWSRF and CWSRF more equitable and build the resilience of Alabama communities, particularly low-income and historically underserved communities in the state. This analysis was developed through the Southern States SRF Policy Analysis and Advocacy Project convened by [PolicyLink](#) with support from the [Environmental Policy Innovation Center \(EPIC\)](#).

The key policy documents that outline how Alabama will distribute its SRF funds, including the supplemental BIL appropriations, are the state's Intended Use Plans (IUPs). This memorandum focuses on the most recently available IUPs for Alabama from the state fiscal year 2022, along with relevant statutes and regulations that guide the SRF.

Key Facts and Links for Alabama's DWSRF

- **State agency responsible for administering the DWSRF in Alabama:** Alabama Department of Environmental Management (**ADEM**)
- **Name of Alabama's DWSRF program:** State of Alabama Drinking Water Revolving Fund Loan Program
- **Alabama's SFY 2022 Intended Use Plan (IUP) for the DWSRF**, issued in August 2022, explains how it intends to distribute FFY 2022 SRF appropriations
 - The Alabama State Fiscal Year (SFY) 2022 DWSRF IUP utilizes funding from the Federal Fiscal Year (FFY) 2022 capitalization grant, state match of federal funds (which are fulfilled by overmatch of State Match Bonds issued previously), a contribution from ADEM State Enforcement Action, and ARPA.
 - BIL supplemental funds to Alabama's DWSRF are issued through separate IUPs: (1) DWSRF BIL IUP, (2) DWSRF BIL Lead Service Line IUP, and (3) DWSRF BIL Emerging Contaminants IUP.
- **State statute authorizing the Alabama DWSRF:** [AL Code § 22-23B](#) creates the Alabama Drinking Water Finance Authority & DWSRF. [Section 22-23B-3](#) directs the AL DWSRF to be maintained and operated by ADEM.
- **Other relevant state statutes and regulations:**
 - Chapter [335-11-2](#) of the ADEM Administrative Code describes the regulations and procedures governing the DWSRF program.

- **Relevant links & resources:**

- Alabama Department of Environmental Management ([ADEM](#)) Website
 - State Revolving Fund (SRF) [Webpage](#)
 - Guidance for SRF Applicants [Webpage](#)
 - IUPs are released through ADEM's public notice [Webpage](#)
 - [AlabamaWaterProjects.com](#), created by ADEM to inform about the progress of SRF applications outside of public comment periods

Key Facts and Links for Alabama's CWSRF

- **State agency responsible for administering the CWSRF in Alabama:**

Alabama Department of Environmental Management (ADEM)

- **Name of Alabama's CWSRF program:** State of Alabama Clean Water State Revolving Fund (also Water Pollution Control Revolving Loan Fund)

- **Alabama's SFY 2022 Intended Use Plan (IUP) for the CWSRF**, issued in August 2022, explains how Alabama intends to distribute the federal fiscal year 2022 SRF appropriations.

- The Alabama State Fiscal Year (SFY) 2022 CWSRF IUP utilizes funding from the Federal Fiscal Year (FFY) 2022 capitalization grant, state match of federal funds (which are fulfilled by overmatch of State Match Bonds issued previously), a contribution from ADEM State Enforcement Action, and ARPA.

- BIL supplemental funds to Alabama's CWSRF are issued through separate IUPs: CWSRF BIL IUP & CWSRF BIL Emerging Contaminants IUP.

- **State statute authorizing the Alabama CWSRF:**

[AL Code Section 22-34](#) established the CWSRF and the Water Pollution Control Authority. [Section 22-34-3](#) directs the Alabama CWSRF to be maintained and operated by ADEM.

- **Other relevant state statutes and regulations:**

- [Chapter 335-11-1](#) of the ADEM Administrative Code describes the regulations and procedures of the CWSRF program.

- **Relevant links & resources:**

- Alabama Department of Environmental Management ([ADEM](#)) Website
 - State Revolving Fund (SRF) [Webpage](#)
 - Guidance for SRF Applicants [Webpage](#)
 - IUPs are released through ADEM's public notice [Webpage](#)
 - [AlabamaWaterProjects no I'm watching. Have you seen Ted Lasso football coach from America that goes to London and teaches football soccer soccer.com](#), created by ADEM to inform about the progress of SRF applications outside of public comment periods

Issues of Concern for Alabama Communities Relating to Water Infrastructure

Despite the historic funding amounts made available for water infrastructure development through the BIL and ARPA, SRF funding in Alabama is not adequate to meet the need for water infrastructure improvements, especially when considering the need to address failing decentralized wastewater, emerging contaminants, and lead. Alabama's 20 year anticipated funding needs are \$12.1 billion for drinking water³ and \$4.02 billion for clean water.⁴ SRF funding requests to ADEM from existing applicants alone amount to \$3.3 billion.⁵ However, Alabama's anticipated funding from BIL and ARPA still is not adequate to fund Alabama's current, known infrastructure needs.

In anticipation of BIL and ARPA funds in early 2022, ADEM issued a funding announcement encouraging all drinking water and wastewater systems with critical needs to apply for the SRF.⁶ The funding announcement has been met with more than 450 DWSRF applications and more than 300 CWSRF applications.⁷ This may suggest drinking water needs outpace wastewater in Alabama; however, it is likely a reflection of the existing accessibility of the DWSRF structure, underprioritization of wastewater infrastructure issues, and challenges communities face accessing the CWSRF. As the overwhelming response to the funding announcement demonstrates, the needs of wastewater and water infrastructure are not being met by Alabama's SRF program, even for applicants with the required resources to apply. The magnitude of Alabama's infrastructure issues are understated because of the difficulty some smaller, disadvantaged, and rural communities face in applying and meeting the requirements of the SRF.

Alabama's SRF program falls short of leveraging the complete range of federal tools made available by the BIL, CWA, and SWDA to meet the infrastructure needs of disadvantaged communities. Alabama underuses SRF tools such as set-asides and flexible funding options. This shortfall leads to challenges for small, rural, disadvantaged, and historically underfunded communities when attempting to access the SRF program. These challenges stem from burdensome financial requirements, lengthy and cumbersome application processes, and a lack of communication and transparency in the SRF process in Alabama.

Alabama also experiences unique challenges in waste sanitation and management throughout a large region of the state, the Black Belt. Roughly 18 counties and communities comprise the Alabama Black Belt and are generally rural with high poverty rates. Much of the area has clayrich vertisol, "shrink-swell" soils, that cause conventional septic systems to fail.⁸ Chronic wastewater issues are often unable to be addressed by existing centralized services due to low population density and limited financial capacity at local levels. This region of Alabama has struggled with underinvestment and neglect for decades and faces many difficulties accessing the SRF.

The Department of Justice (**DOJ**) investigated the Alabama Department of Public Health (**ADPH**) following a 2018 civil rights complaint regarding Lowndes County, located in the Black Belt. The investigation revealed that ADPH's enforcement of sanitation laws threatened residents of Lowndes County with criminal penalties and property loss for wastewater sanitation conditions that individuals and communities could not alleviate.⁹ As a result of the DOJ investigation, Alabama has agreed to provide Lowndes County residents with sewage treatment, regardless of their ability to pay.¹⁰ This first-of-its-kind environmental justice settlement requires the state to assess Lowndes County residents' sewer needs and create a plan to address those needs by June 2024.¹¹ ADPH released their "Final Public Health and Infrastructure Improvement Plan" for improving access to proper sanitation in Lowndes County in December 2024.¹² ADPH is cooperating with the terms of the settlement by suspending criminal penalties for wastewater failures in homes, examining public health risks of sewage exposure, educating residents about sewage exposure, and conducting assessments to determine the types of wastewater management systems that can function safely in Lowndes County. Chronic wastewater infrastructure issues are present throughout the Black Belt, and the Department of Public Health lacks funding mechanisms available to tackle them.

In addition to this complaint, there is another civil rights complaint alleging discrimination in the distribution of funding for wastewater infrastructure in communities of color filed against ADEM.¹³ This complaint notes several issues in the CWSRF that make the loan program nearly impossible to access for households using onsite wastewater infrastructure. An EPA investigation into ADEM and the complaint is ongoing,¹⁴ yet ADEM has not started instituting programmatic SRF changes that would allow enhanced access for communities relying on decentralized wastewater services. In Alabama, where infrastructure funding needs are immense, advocating for disadvantaged communities struggling to access SRF funding is a significant challenge.

Summary of Key Findings and Recommendations

Drinking Water

Alabama should provide more accessibility to the DWSRF for disadvantaged communities and nontraditional projects and recipients (such as green infrastructure projects and nonprofits). This could be accomplished by (1) making SRFs available for communities that lack a public entity and experience water issues, (2) offering more flexible financing requirements and terms, (3) expanding technical assistance from set-aside programming, including planning and design grants, to allow communities to prepare for SRF loans, and (4) promoting SRF education and accessible resources for communities. Alabama should also consider using the historic funding opportunity to prepare statewide action plans and funding priority lists for removing lead and emerging contaminants from drinking water.

There is an urgent need in Alabama for SRFs to be able to provide financial assistance to disadvantaged communities that lack formal governing structures and/or have private drinking water issues, such as failing private wells. However, unincorporated communities and households that rely on private wells are currently not able to access SRF assistance as they lack the existing structure to receive funding. In instances where failing private wells impact water quality or public health, SRF eligibility should be expanded to be able to provide assistance to these communities and build their capacity to accept federal funding in the future. This would be helpful to lower the cost of drinking water treatment and distribution for

rural households with nearby neighbors. Additionally, Alabama should consider issuing specific advice or guidance for these communities lacking a public entity to successfully utilize SRFs.

Several SRF program adjustments that would help Alabama better reach communities, such as expanding technical assistance and alternative financing options, are already permitted federally. ADEM needs to adjust its state level SRF policies to reach more communities with funding as federal rules allow and recent funding has encouraged. These adjustments to Alabama's SRF program would be relatively straightforward on paper, but are capable of expanding access to SRF funds, especially among disadvantaged communities. Implementing several of these recommended DWSRF changes in Alabama could be directly carried out by SRF staff on future IUPs, while some may necessitate regulatory adjustments to influence SRF practices.

Clean Water and Wastewater

Alabama has significant gaps in providing functioning wastewater services, exacerbated by rural communities ill suited to centralized sewer systems, disadvantaged communities facing financial difficulties, and difficulties all applicants face accessing funding for wastewater failures and necessary upgrades. Alabama's CWSRF could improve its effectiveness at tackling wastewater issues if it embraced the existing mechanisms encouraged by the EPA to provide clean water funding efficiently and equitably. Expanding CWSRF initiatives, including (1) establishing robust set-aside programs and activities like planning loans, (2) extending CWSRF loans to decentralized wastewater services and other communities lacking a public entity, and (3) providing enhanced financial options for disadvantaged communities, would enhance accessibility to the CWSRF. The program lacks the statewide oversight and resource sharing mechanisms that the DWSRF establishes for drinking water facilities. Introducing statewide management and support programs through CWSRF set-asides would enhance wastewater management and help create a forum to handle compliance long term.

The most impactful policy reform of ADEM's CWSRF is to launch a program to extend SRF loans to decentralized wastewater services and communities lacking a public entity. Federal and state regulations already allow decentralized projects as an eligible SRF activity, but ADEM does not incorporate this in practice. Establishing a program with ADEM,

or in conjunction with an outside organization, to provide loan services to decentralized systems may be complicated, but could have a substantial impact on addressing the ongoing wastewater challenges throughout the state. ADEM should consider exploring options to begin issuing CWSRFs to decentralized wastewater services, directly or indirectly.

Other CWSRF policy reforms that would meaningfully expand access to funds would be to create robust set-aside programs, provide planning and design loans, increase technical assistance offers, and provide alternative financing options to communities meeting affordability criteria. More flexible funding options for disadvantaged communities could include alternative repayment terms and forms of repayment to avoid creating unaffordable user rates. These activities are already allowed by federal CWSRF regulations, and Alabama needs to expand its program to take advantage of these ways to execute the CWSRF more effectively. Many of these changes could be directly implemented by SRF staff at ADEM on future IUPs while some may require regulatory updates to change SRF rules and agency practices. See "Key Recommendations for Alabama's CWSRF" for more details about options for implementing these changes.

Analysis of Alabama's DWSRF

ADEM's DWSRF program provides low-interest loans for public drinking water infrastructure improvements. Eligible recipients apply to be considered for drinking water funding by submitting a preapplication outlining the request and fulfilling state and federal prerequisites for loan assistance. DWSRF loans are issued to public drinking water utilities to fund infrastructure projects, or the construction of improvements as defined in the project assistance agreements. ADEM releases several IUPs annually for each stream of state revolving funds that detail the prioritized projects and how they were selected. DWSRF applicants meeting certain disadvantaged criteria are offered additional subsidization in the form of principal forgiveness. These annual IUP releases and the subsequent project agreements are opportunities for regular public involvement with the SRF process and where to learn more about state infrastructure priorities and projects.

State Statutes Enabling the DWSRF

In 1997, the Alabama Legislature established the Alabama Drinking Water Finance Authority (**ADWFA**) and the DWSRF to distribute Alabama's portion of federally allocated SDWA funding.¹⁵ The ADWFA is composed of the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Director of ADEM, and the state Director of Finance.¹⁶ The ADWFA is authorized to receive federal and state grants annually, issue state matches where required, make loans to public bodies, execute loan agreements, leverage bonds, establish fiscal years, represent the DWSRF in suits if needed, and publish annual audits.¹⁷ The ADWFA meets periodically during the legislative session and budgetary process. Alabama's DWSRF is maintained and operated by ADEM as the agent for the ADWFA.¹⁸ The state legislature authorizes the DWSRF, usually annually, by distributing federal capitalization grants and issuing state match. The DWSRF is intended to fund infrastructure needs required for compliance or to meet the public health objectives of the SDWA.

How the DWSRF Is Funded

Congress allocates funding for the DWSRF to the EPA. Before distributing the funds, Congress deducts amounts designated for specific projects, which the EPA manages and oversees directly. Growing congressionally directed spending projects are threatening the future of state SRFs.¹⁹ EPA distributes DWSRFs as capitalization grants to state, territory, and tribal

drinking water programs based on a formula determined by the Drinking Water Infrastructure Needs Survey and Assessment (**DWINSAs**). The seventh DWINSAs was conducted in 2021 and surveyed public water systems about their anticipated needs for the next 20 years. Adequate demonstration of needs in the DWINSAs is required to ensure that Alabama receives its fair share of SRF money. EPA notifies Alabama each year when capitalization grants are released and available, typically a few months after the federal allocations bill is passed.

Once federal appropriations are available, Alabama's legislature must provide a 20% state match to utilize EPA's capitalization grants. During FFY 2022 and 2023, BIL funds allow for a reduced state match of 10% on all DWSRF eligible projects and no state match on projects for emerging contaminants and lead service lines.²⁰ The ADWFA fulfills Alabama's match requirements with legislatively designated state match, past bond proceeds from leveraging, interest earnings, fees from ADEM enforcement, and/or loan repayments. For SFY2022, Alabama fulfilled its DWSRF capitalization grant match with overmatch from State Match Bonds in previous years and a contribution from ADEM State Enforcement Action. For the SFY2022 DWSRF IUP with BIL funds, the Alabama state legislature appropriated a 10% state match.

For the majority of SRF loans, the recipient ends up with a principal loan amount with an interest rate charged on the principal during repayment. SRF loan repayments are returned back to the state's SRF accounts for future distribution to projects. For example, on the FY2023 CWSRF IUP for base funding, 9.8% of funding is sourced from the federal SRF appropriation, 1.9% from state matching, and 88.3% of available funding to projects is sourced from loan and interest repayments.²¹ However, on the FY2023 CWSRF IUP with BIL-supplemental funding, 90% of available SRF funds are from the BIL while 10% is from state match, while interest and repayments do not appear to be applied (\$11 million).²² It is up to the state's discretion about how much of their SRF repayments are applied to future projects.

Leveraging Capitalization Grants

To increase the amount of SRF grants available to projects, states are allowed to leverage their capitalization grants by selling bonds. This can drastically increase the amount of funding available for the DWSRF and fund more projects each year. Historically, Alabama has leveraged its capitalization grants just enough to fulfill its 20% match requirements.²³

Agency Regulations Guiding the DWSRF

Allowable projects and activities are described in ADEM's Administrative Code. It also includes information regarding terms of assistance agreements, application procedures, rules and requirements for projects to proceed with funding, what's not eligible for funding, and the maintenance of the DWSRF.²⁴ ADEM's rules describe the eligible list of DWSRF projects as rehabilitation of contaminated drinking water sources, development of new sources to replace contaminated sources, installation or upgrade of treatment facilities, installation or upgrade of storage facilities, installation or replacement of transmission and distribution pipes, implementation of green stormwater projects at publicly owned facilities that are part of an eligible drinking water infrastructure project, installation or retrofit of water efficiency devices, replace potable water with non-potable sources for reuse, and installation of renewable energy sources that are part of an eligible drinking water infrastructure project. While the DWSRF will fund construction, upgrades, and even possibly purchase eligible debts, they cannot be used for dam construction or rehabilitation, water rights, reservoirs, projects primarily for fire protection, laboratory fees, and regular operation and maintenance expenses.²⁵

ADEM has broad discretion to determine which communities are eligible to receive DWSRF loans. Only public entities are eligible.²⁶ To obtain DWSRF funding, a utility or municipality must be included on a PPL, must have security for repayment of SRF loans, and must not have defaulted on previous grants or debts.²⁷ Utilities must also agree to periodically adjust their user fee structure to ensure loan repayment and operating costs are covered, maintain financial records by governmental accounting standards, and conduct annual financial audits.²⁸ ADEM must be satisfied that the applicant has demonstrated the ability to repay a loan and to operate and maintain facilities for the projected useful life of the project to be eligible for DWSRFs.²⁹

Inability to Tolerate Rate Adjustments

Alabama's regulatory requirement to periodically adjust user fees and charges is particularly burdensome for the communities trying to improve water infrastructure without burdening their ratepayers. It is understandable that utilities will need to repay loans if not being awarded additional subsidization. However, if individual ratepayers will experience hardship from a rate increase caused by financing a project,

ADEM should explore alternatives to rate increases that would not further burden already impoverished ratepayers. Fear of rate increases keeps many communities that would qualify for principal forgiveness from accessing the DWSRF. Additionally, it is unclear if communities that anticipate DWSRF 100% principal forgiveness for SRF loans are still required to agree to rate adjustments prior to a project agreement. Alabama should consider incorporating sustainable rate structure practices and training for drinking water systems to implement them.

Preapplication Requirements

Applicants must submit a preapplication to be considered for the DWSRF. ADEM's DWSRF preapplication can be daunting for low income and rural communities with limited technical and financial resources. ADEM historically does not offer much assistance with preparing preapplications or application workshops other than information available on their website and to contact them with questions. Due to the historic funding opportunity, SRF staff has increased outreach to advertise funding availability, but getting assistance with preapplication requirements and the application itself can still be difficult.

DWSRF applicants must have a Preliminary Engineering Report with a proposed project design,³⁰ and the cost of procuring engineering services can be expensive to sustain during the SRF process. Some engineers may defer fees until loans are awarded or provide services at no cost for communities facing hardship. However, applicants are responsible for finding engineers, and not all can accommodate low income communities by deferring fees or designing low cost projects. Additionally, the pre-application requires audited financial statements,³¹ which some communities experience difficulties completing. Applicants also navigate the project priority ranking system³² and self assign the Priority Ranking Criteria, or how important their project should be. Documentation must be submitted for priority points captured, and thus some points are missed due to unfamiliarity or yet-to-be-defined project details. Communities often feel discouraged from applying for project assistance due to these pre-application requirements, especially when they rely on additional subsidization for DWSRF projects.

DWSRF Intended Use Plans

Once funds are available, SRF staff at ADEM are responsible for determining the IUP for that year's funds, reviewing preapplications, and ranking projects for the PPL.

Preapplications are accepted at any time, but to appear on an IUP and be eligible for an additional subsidy, applicants must apply before a certain date each year, announced by ADEM.³³ This subsidy application submission deadline is unknown and it is unclear where the information is available. ADEM publishes the PPL with the IUP on their public notice website, simultaneously notifying the public and selected applicants.

Engaging with the IUP Process

ADEM is required to host a public comment period following the draft IUPs, respond to comments, and submit feedback on what comment letters were submitted during the IUP process to EPA. Advocates might wish to share IUP comments directly with the EPA if they want to ensure the EPA sees their IUP comments. Typically, ADEM allows 30 days to receive public comments. The public notice describes the IUPs available for comment, how to comment, and links to the draft IUPs.

During the fiscal years funded by the BIL, ADEM has issued—and is expected to continue issuing—four distinct IUPs for the DWSRF: the base capitalization grant IUP, the BIL supplement to the base capitalization grant IUP, the BIL Lead Service Line Replacement IUP, and the BIL Emerging Contaminants IUP. Single comments addressing multiple IUPs are accepted. ADEM historically releases IUPs in bulk, but has withheld specific funds and their IUPs until projects are ready to proceed (e.g., the SFY2022 DWSRF EC IUP was released a year after the other IUPs).

Determining the Project Priority List (PPL)

To create the PPL for each IUP, ADEM uses the priority point ranking submitted by DWSRF applicants to determine how to prioritize drinking water funds. Form 370 is submitted by all DWSRF applicants, regardless of which substream of drinking water funding the project seeks. Requests for supplemental funds to complete projects funded in a prior year are automatically given top priority.

ADEM does not appear to cap DWSRF loans. Projects are listed in descending order of priority point rating. If two applications have the same priority rank, the IUP and regulations offer slightly different advice for how to decide which ranks higher. While the SFY 2022 DWSRF IUP says the project with the smallest number of existing customers will receive the higher ranking, ADEM's Administrative Code says the project with the lowest median household income will receive the higher ranking.³⁴

ADEM's DWSRF Priority Ranking Criteria contains 750 possible points for applicants to demonstrate how much they need funding. Points are available for projects that would address compliance issues (up to 50), remove drinking water contaminants (up to 150), incorporate water or energy efficiency designs (up to 45), increase water capacity and pressure to safe levels (up to 100), consolidate water systems (up to 100), have sustainable designs (up to 50), alleviate a financial burden (up to 60), and certain specificities in the project design (up to 195).³⁵ Up to 30 points may be subtracted for applications in which the system failed to conduct regular monitoring or complete surveys. Project affordability is calculated as the average annual water bill divided by the median annual household income and multiplied by 100. How affordable a project is for the rate-payers can capture up to 60 points (8%) of the overall project ranking matrix, and no priority ranking points are available to incentivize systems to institute or use water affordability programs. This ranking system should be adjusted to shift away from using county-level data and be made to reflect the long-term goals of ADEM and priorities of the BIL regarding drinking water affordability and the ability for communities to meet disadvantaged criteria.

Set-Aside Activities with DWSRFs

Set-asides describe a portion of state revolving funds that Alabama can choose to withhold to support projects and infrastructure activities that are not considered project related activities. Federal law allows up to 31% of capitalization grants to be used for set-aside activities, which includes all funds available from the BIL. States have the discretion to use as much or little of the allowable set-asides as they desire, but the national average percent of the DWSRF set-aside is 22%.³⁶ Many states use these funds to support SRF capacity, bolster workforce development, or offer assistance to those applying for SRF.

ADEM describes how they will, or will not, use their DWSRF set-asides in each IUP. Table 1 displays ADEM’s decision to use three of four allowable DWSRF set-aside categories in SFY 2022. From 2017 to 2020, Alabama only set aside 7.1% of SRF funds.³⁷ Compared to the national average set-aside

use, Alabama underutilized its allowable set-asides. The state should consider funding more set-aside activities to increase its capacity to deliver project funds, issue funds in a more timely manner, and provide technical assistance to communities.

Table 1: SFY2022 Set-aside Activities in Alabama³⁸

Fund	Authorized set-aside activities	Allowable percentage	Amount set-aside	Percent set-aside
DWSRF base capitalization grant SFY2022	State program management (allowable for supervision, source water protection, capacity development, & operator training)	Up to 10%	\$600,000	3.97%
	Local project assistance (allowable for easements, source water protection, technical & financial assistance for capacity development)	Up to 15%	\$10,000	0.06%
	Administration (also allowable for technical assistance)	Up to 4%	\$604,240	4%
	Small system technical assistance (allowable for projects under 10,000 users)	Up to 2%	None	0%
DWSRF BIL grant SFY2022	The same 4 categories allowed	Up to 31% total	None	0%
DWSRF BIL Lead grant SFY2022	The same 4 categories allowed	Up to 31% total	None	0%
DWSRF BIL Emerging Cont. grant SFY2022	The same 4 categories allowed	Up to 31% total	None	0%

Alabama’s DWSRF can only service a small number of projects each fiscal year when compared to the state’s drinking water needs. ADEM’s lower-than-average set-aside rate was said to be to direct the maximum amount of DWSRF to project assistance; however, communities can struggle to successfully state their needs and complete SRF projects without technical and financial assistance. None of the DWSRF IUPs indicate that ADEM delivers technical assistance to applicants. Alabama’s set-aside activities fund educational events, administrative costs incurred by ADEM, and the Public Water System Supervision Program (PWSS). PWSS programs help to enforce

the SDWA and ensure utilities comply with National Primary Drinking Water Regulations. ADEM reserves about 4% of its DWSRF capitalization grant for the PWSS, but fails to provide a detailed plan of PWSS activities.³⁹ Expanding set-aside activities could assist ADEM with the capacity to administrate DWSRF loans and help more projects be ready to proceed. ADEM should develop rigorous set-aside activity plans that incorporate nongovernmental organizations into their plans for drinking water management and sustainability in Alabama.

Subsidization of DWSRF Loans

Alabama's DWSRF offers financial assistance to loan recipients meeting certain criteria by offering additional subsidization on loans in the form of principal forgiveness during loan repayment. Principal forgiveness assists communities in reducing the overall size of their SRF loan by forgiving a portion of the principal loan. Like most states, Alabama's additional subsidization takes the form of principal forgiveness instead of grants, perhaps owed to reduced administrative burden on principal forgiveness when compared to grants. The BIL permanently raised the minimum amount of additional subsidization states must provide to be at least 14% of the base capitalization grant, but it is capped at no more than 35%.⁴⁰ States may provide principal forgiveness for up to 100% of allowable project costs. Principal forgiveness is assigned to the highest ranked qualified applicant in descending rank order on the PPL to those that qualify until the predetermined amount for disadvantaged communities is exhausted.

Issues with Alabama's Subsidization

Alabama fails to meet requirements to award additional subsidization to disadvantaged communities and other qualified applicants.⁴¹ While ADEM assigns the total available amount of additional subsidization on each IUP, the full amount of additional subsidization is not fully distributed to projects afterward. Whether this is due to a lack of project readiness or slow project completion is unclear, but surely ADEM could assist these projects with technical assistance to increase their successful delivery of additional subsidization dollars.

Alabama has recently clarified its criteria for ranking and determining drinking water projects for principal forgiveness in an IUP rerelease, but this can still be improved upon.⁴² Disadvantaged community criteria include the size of the community, the applicant's financial capability, current drinking water rates, and whether Justice40 maps identify the community as a disadvantaged census tract. Attachment 4 and Table 1 on the IUPs further describe how ADEM ranks these factors. Communities in Alabama are considered for principal forgiveness if they have a population under 10,000, < 1.1x debt-to-income coverage ratio, lie in a census tract considered disadvantaged by the Justice40 map, or if the ratio of annual water bill to median household income is greater than one. The disadvantaged rank will be determined based on the

sum of these categories when possible, and then applicants are listed on the PPL in order of their Priority Point Ranking. Despite questions raised by community groups, ADEM has yet to clarify exactly how the assessment of financial capability is carried out and provide more technical assistance to prepare disadvantaged communities for SRF projects.⁴³

Bipartisan Infrastructure Law Funding in Alabama

For the next four to six years, the DWSRF is boosted by the funds available through the BIL. ADEM issues these funds to projects through separate IUPs and PPLs. The DWSRF program shares a single application process, which makes it unclear how ADEM decides if drinking water applicants will be prioritized for base grant funds or BIL supplemental funds. Much of the BIL temporarily impacts state SRFs, but other provisions are permanent, like increasing subsidized funds for disadvantaged communities and complying with Build America, and Buy America domestic sourcing requirements. For the supplemental funds to the DWSRF, Alabama issued a separate IUP with a 10% match appropriated by the Alabama state legislature and 19 projects on the PPL in SFY2022. Alabama's DWSRF BIL IUP provided 49% of funds as additional subsidization to disadvantaged communities as required, and elected to not use any funds for set-aside activities.

The BIL provided investments for lead service line replacement and for addressing PFAS and other emerging contaminants in drinking water, both with no state match requirements. ADEM does not currently have lead service lines inventoried but has requested detailed inventories from drinking water utilities by October 16, 2024.⁴⁴ For SFY2022 lead service line replacement (LSLR) funds, ADEM issued an IUP with traditional loan terms, 49% of funds were offered as principal forgiveness and a PPL with three projects in communities that already had lead service line inventories. ADEM has not set aside any funds to support the inventory of lead service lines in Alabama but should consider doing so to support education, outreach, and the development of LSLR inventories.⁴⁵

For emerging contaminants, ADEM initially waited to release the IUP after the EPA issued Maximum Contaminant Levels (MCLs) for several PFAS compounds in drinking water in 2023. The SFY2022 DWSRF Emerging Contaminants IUP was issued with traditional loan terms and provided 100% of funds as a loan with principal forgiveness to one project.⁴⁶ ADEM SRF

staff communicated difficulties funding drinking water projects addressing PFAS for the relatively small amount of funding available each fiscal year (about \$16 million). Drinking water projects to address PFAS are notoriously expensive. ADEM is allowed to set aside a portion of these funds but has elected not to despite the pervasive status of PFAS in drinking water statewide. Alabama should consider using its set-aside and technical assistance abilities to build an EC project pipeline.

Promoting Green Water Infrastructure

To reduce energy and water consumption, states may allocate up to 10% of their SRF funding for projects that incorporate green infrastructure, and this Green Projects Reserve is also eligible to be used for BIL supplemental funds. DWSRF funding of green projects is a discretionary choice left to states.⁴⁷ In SFY2022, ADEM chose to use 10% of the DWSRF for green projects and had one green project on the DWSRF PPL, and the DWSRF BIL IUP had eight projects on the PPL with green infrastructure components. While Alabama has historically supported green infrastructure projects, projects typically are traditional designs with water or energy efficiency measures incorporated, rather than designs that truly incorporate nature-based solutions that mimic the earth's water management. **For Alabama to withstand the impending impacts of climate change, ADEM should wholeheartedly support green infrastructure projects and promote statewide planning for future water availability.**

Workforce Development in Alabama's DWSRF

Alabama does not describe any workforce development programs or activities in its DWSRF IUPs. Some states use the flexibility of set-asides and green infrastructure to support workforce development and programs that seek to fill gaps in the water workforce. ADEM should utilize the DWSRF as a mechanism to support a skilled workforce and consider supporting such programs like job training, apprenticeship programs, or youth career education directly or by passing funding to eligible community based organizations for these activities.

Terms of SRF Loans

Terms of assistance for drinking water projects in Alabama are customized to each project agreement and are influenced by the funds available each fiscal year. Details about terms

of assistance are gathered between the IUP and ADEM's Administrative Code. DWSRF loans may be used for up to 100% of allowable project costs. Loans must be repaid within 20 years, or under special circumstances 30 years, and repayments start following the completion of construction, or within 3 years of financial assistance being made. Interest on the loan starts incurring as soon as the financial agreement is made, so even projects given 100% principal forgiveness might expect to make interest payments. SRF loan interest rates are not listed on the IUP or SRF webpage, but the SFY 2022 SRF interest rate was listed as 2.2% in an SRF program presentation.⁴⁸ Each DWSRF project will have a financial assistance agreement that details the full terms and schedule of principal and interest repayment for loans. Other states may offer different, relaxed terms for disadvantaged communities to provide enhanced access to DWSRF loans, but this is not practiced in Alabama.

After the IUP, the Project Perspective

Applying for the DWSRF in Alabama is a lot of "hurry up and wait." To be eligible for funding, applicants must first submit a fully completed preapplication, be placed on a PPL, and have a feasible project schedule coinciding with the funding availability. Over 400 applications have been submitted for the DWSRF. As of fall 2023, approximately 53% of waiting DWSRF applications have been approved or reviewed.⁴⁹ Once a project has been placed on a PPL and IUP, applicants must submit a full application and attachments by a deadline given or agreed upon with SRF staff to receive DWSRF assistance in that year.⁵⁰ The full DWSRF project application requirements are found in ADEM's Administrative Code and are quite lengthy, with full engineering documents, project specifications, agreements with local governments, permits from ADEM, and more. Then, DWSRF funds are only available after project costs have been incurred and must be used on project activities agreed upon with ADEM. Some states allow for reimbursement of costs based on invoices rather than receipts which can shorten the wait for funding in communities with cash flow constraints. Alabama should consider this practice if they are not already, but this detail is not available on the IUPs or regulations.

Finally, once all the DWSRF requirements are met, the applicant can enter a project assistance agreement with ADEM. The assistance agreement contains terms and conditions for repayment that ADEM determines to maintain the financial integrity of the DWSRF.⁵¹ After the assistance agreement is worked out, construction is typically started. DWSRF funds

are only disbursed to recipients once project costs have been incurred, but no more than once a month.⁵² ADEM typically releases a public notice on its website when a project is ready and funding has been made available. The full assistance agreement, project application, and any related documentation should also be made publicly available at this stage. **ADEM's public notices about specific projects are another opportunity for interested advocates to request a public hearing to learn more about project specifications.**

Key Recommendations for Alabama's DWSRF

Recommendation 1: Make steps toward providing DWSRF and additional subsidies for failing private wells and drinking water issues in communities traditionally unable to access SRF financing by expanding SRF eligibility.

Federal laws allow for SRFs to be awarded to more types of entities than is allowed under Alabama's SRF regulations, which include privately owned and publicly owned community water systems, nonprofit noncommunity water systems, and new community systems.⁵³ Alabama chooses to restrict their DWSRF eligible recipients to public bodies defined as "any county, state agency, incorporated city or town, public corporation, district, cooperative, association, authority or any instrumentality thereof created by or pursuant to state law and having jurisdiction, power or authority concerning the transmission, sale, production or delivery of drinking water, including also a combination of two or more of the foregoing."⁵⁴ Given this definition, it is unclear whether individual households or communities lacking a public body can receive financial assistance.

Many Alabamians live in rural communities, located outside the service areas of centralized drinking water utilities and must rely on private drinking water wells. Rural communities that are fortunate enough to have drinking water services may face financial strain due to small customer bases and may be unable to support the cost of upgrades. This problem is exacerbated in low-income rural communities, where rate adjustments place a greater burden on households.

Alabama should consider expanding DWSRF eligibility to establish a route for disadvantaged communities lacking a public entity or individuals with failing water wells to receive financial assistance for drinking water projects. Communities that lack existing structure to receive federal funding might also lack experience with project management and maintaining water infrastructure so ADEM should consider supporting these communities with set-aside funding and technical assistance during pre-application, planning, and construction.

To keep local options open to fit local ownership and utility structure needs, Alabama should expand its DWSRF eligibility to be able to meet the drinking water needs of disadvantaged communities lacking a public entity. Since these communities are likely to need additional support through the SRF process, Alabama should issue specific guidance or advice for this group of applicants to access financial assistance and perhaps set aside funding to support these applicants to be successful with the SRF.

Recommendation 2: Provide enhanced DWSRF access for disadvantaged communities by better utilizing DWSRF set-asides for technical assistance, workforce development, and capacity development activities.

Alabama should utilize more set-asides to help communities that require assistance to apply or to proceed with DWSRF projects. Technical assistance can be used to pay for experts and consultants for services needed to apply for the DWSRF such as financial, legal, engineering, communication, and grant writing. Set-asides can also help defray the costs of preparing an application, the application process, or costs related to the construction process.

If Alabama's DWSRF already provides technical assistance to applicants, then ADEM should better communicate available assistance opportunities to the public. ADEM should also update its SRF documentation to indicate the type and amount of technical assistance typically given to communities when asked. National and regional technical assistance providers are working directly in Alabama communities to assist, such as EFC West, the Rural Water Association, and the Rural Community Assistance Partnership. In general, Alabama could do better to provide information about SRF assistance, whether that is through ADEM or outside resources.

Funds can also be set aside for state workforce development and capacity development at ADEM, which might help process the backlog of project applications, improve public engagement, and service more project agreements each year. ADEM may think that set-asides require more effort than benefit,⁵⁵ but perhaps further education of SRF staff and Alabama legislators about the usefulness of set-aside activities and long-term benefits for delivering loans effectively could persuade Alabama to utilize its allowable set-aside more robustly. ADEM already has the flexibility to use set-asides under its regulatory structure, and increased use of set-asides would only require changes to IUPs. ADEM should develop a set-aside activity work plan for existing funds and plans that detail their offers of technical assistance.

Recommendation 3: Provide more financial flexibility for DWSRF loans and allow applicants to meet financial capability requirements by thinking outside the box to avoid rate adjustments.

Prior to receiving a DWSRF loan in Alabama, ADEM determines if the applicant demonstrates the “technical, financial, and managerial” ability to operate and maintain the facilities over the useful life and to repay the loan.⁵⁶ DWSRF loans are only made to public entities that agree to periodically adjust user fees and charges in order that a revenue stream is generated to repay the loan. Despite the added benefit of additional subsidization for disadvantaged communities, the requirement to adjust rates creates a significant barrier for low-income and small communities. While SRF loans must have a dedicated source of loan repayment revenue, there are other forms of revenue that are federally allowed other than ultimately pushing the cost of upgrades onto the user base. The SRF project itself does not have to be the source of revenue for repayment. Other revenue sources for repayment from loan recipients to the state can be property taxes, homeowners association fees, entrance fees to parks/recreation areas, land use fees, and sales taxes. It is unclear if ADEM would allow for nontraditional sources of revenue for repayment, and it is believed that drinking water services have less issues maintaining income than wastewater.

Alabama also does not allow flexible funding options, such as extended financing terms or alternative interest rates for disadvantaged communities. The SDWA Amendments in America’s Water Infrastructure Act (**AWIA**) of 2018 extended

the maximum DWSRF loan repayment period to up to 30 years for any DWSRF-eligible recipient or up to 40 years for disadvantaged communities, or life of the design, whichever is shorter. ADEM typically offers loans in 20 year financing terms, with 30 years allowed under special circumstances, yet these special circumstances are undefined. Lengthening repayment terms would allow for a reduced amount required for each applicant to show financial capability and thus allow more disadvantaged communities to access the SRF, perhaps with a lower rate increase.

Alabama should consider changing its DWSRF regulations to (1) remove the burdensome requirement to adjust customer rates in order to receive DWSRF loans, (2) allow for other forms of revenue to be used to repay loans, and (3) offer alternative financing terms for disadvantaged communities. These changes can be accomplished by regulatory changes at the department level. Regulatory changes at ADEM are made by rule-making petitions, which are approved by ADEM’s Environmental Management Commission.

Recommendation 4: Use the historic funding opportunity afforded by the BIL to prepare Alabama for the uncertain drinking water future of higher treatment costs due to emerging contaminants by studying the scope of the issue and developing plans for mitigation.

Alabama is facing an uncertain future regarding pollution in drinking water sources due to emerging contaminants such as PFAS and previously uncommon biological agents like *Cryptosporidium*. There are currently no statewide emerging contaminant strategies or plans for how Alabama and ADEM will address these emerging contaminants in drinking water, but ADEM has mentioned being uncertain about the impacts of emerging contaminants on the cost of DWSRF projects.

ADEM should consider using its flexibility to set aside funding from the BIL supplemental Emerging Contaminant (**EC**) funds to do statewide planning around emerging contaminants. Activities like studying the financial burden of PFAS on drinking water and conducting studies about feasible technologies for mitigating contaminants from drinking water would be allowable through set-asides. Alabama is able to direct up to 31% of EC funds for set-aside activities focused on developing statewide plans for PFAS mitigation from drinking water. Accomplishing this would simply require ADEM to begin

holding set-aside funds, develop a plan for these activities, and announce their set-aside activities in a plan on the next IUP. This would allow Alabama to make the relatively small amount of funds available from the BIL for emerging contaminants beneficial for the entire state.

Other areas of concern for Alabama's DWSRF program

Taking into account the outstanding infrastructure needs Alabama has beyond the funds available through the SRF, BIL, and ARPA (and the uncertain future of the SRF in federal budgets), Alabama should consider leveraging its capitalization grants from the EPA and increasing the amount of project funding available each fiscal year. States can leverage their capitalization grants by using it as capital and borrowing from other institutional debt sources to increase SRFs. ADEM did not choose to leverage any of its SFY 2022 SRF or BIL funds.

ADEM must make more information available about the source of funds used for projects and loan subsidies. A recent EPA Office of Inspector General audit report found that Alabama did not submit data to the Office of Water State Revolving Fund database about loan subsidy amounts for specific funding streams.⁵⁷ It is hard to track whether or not Alabama is meeting requirements to actually deliver services to disadvantaged communities because ADEM does not adequately report SRF activities. ADEM also frequently failed to meet the EPA timeliness goal to execute loan subsidies during the first fiscal year funds are available.

Hundreds of SRF applicants are currently waiting to be reviewed, approved for DWSRF, and placed on a future IUP. It is unclear how ADEM ranks the waiting pool of applicants between funding rounds. ADEM's regulations say the PPL should be divided into fundable and nonfundable planning portions, with the nonfundable portions including all projects eligible for funding but sufficient funding is not available.⁵⁸ However, ADEM's SFY2022 DWSRF IUPs do not contain a second list of nonfundable projects. Additionally, it is unclear how ADEM decides to prioritize projects or solicit applications for the BIL-supplemental funds such as lead service line replacement or emerging contaminants mitigation. Alabama should consider merging all funding available under the DWSRF to avoid complications and confusion.

Analysis of Alabama's CWSRF

ADEM's CWSRF, also referred to as the Water Pollution Control Revolving Loan Program, provides low-interest loans for nondrinking water infrastructure projects allowed under the CWA, such as stormwater and wastewater collection, conveyance, and treatment projects. Eligible recipients may apply to the CWSRF by submitting a preapplication outlining the assistance request and fulfilling state and federal prerequisites for loan assistance. CWSRF loans are issued to eligible public entities to fund the planning, design, and construction of eligible infrastructure projects as defined in project assistance agreements. ADEM releases several IUPs annually for each stream of CWSRF that detail the prioritized projects and how they were selected. CWSRF applicants meeting certain criteria are offered additional subsidization in the form of principal forgiveness. **These annual IUP releases and the subsequent project agreements are opportunities for regular public involvement with the SRF process and where to learn more about state infrastructure priorities and projects.**

State Statutes Enabling the CWSRF

In 1987, the Alabama Legislature established the Alabama Water Pollution Control Authority (**AWPCA**) and the Water Pollution Control Revolving Loan Fund,⁵⁹ which is synonymous to the CWSRF.⁶⁰ The AWPCA is made up of the Governor, the Lieutenant Governor, the Speaker of the Alabama House of Representatives, the Director of ADEM, and the state Director of Finance.⁶¹ The AWPCA is authorized to receive federal and state grants annually, issue state matches where required, make loans to public bodies, execute loan agreements, leverage bonds, establish fiscal years, represent the CWSRF in suits if needed, and produce annual audits.⁶² The AWPCA meets periodically during the legislative session and budgetary process. Alabama's CWSRF is maintained and operated by ADEM as the agent for the AWPCA.⁶³ The state legislature authorizes the CWSRF by distributing federal capitalization grants and issuing state matches if needed.

How the CWSRF is Funded

Congress appropriates funding for the CWSRF to the EPA, after subtracting amounts earmarked for specific projects by Congress.⁶⁴ Congressionally directed spending projects are managed by the EPA and must meet federal requirements for project activities. EPA distributes CWSRFs as capitalization

grants to states, territories, and tribal governments based on a formula from the CWA. EPA notifies Alabama each year when the capitalization grants are released and available, typically a few months after the federal allocations bill is passed.

Once federal appropriations are available, Alabama's state legislature must provide a 20% state-level match to utilize EPA's capitalization grants. BIL funds available during FFY 2022 and 2023 allow for a reduced state match of 10% on all CWSRF eligible projects and no state match on projects for emerging contaminants.⁶⁵ The AWPCA and state legislature typically fulfill Alabama's state match requirements with legislatively designated state match, bond proceeds from leveraging, interest earnings, fees gathered from ADEM enforcement, and/or loan repayments. For SFY2022, Alabama has fulfilled its CWSRF capitalization grant state match with an overmatch of State Match Bonds in previous years and a contribution from ADEM State Enforcement Action.⁶⁶ For the SFY2022 CWSRF IUP with BIL funds, Alabama's state legislature appropriated a 10% state match.

Leveraging Capitalization Grants

To increase the amount of SRF grants available to projects, states are allowed to leverage their capitalization grants by selling bonds. This can drastically increase the amount of funding available for the CWSRF and fund more projects each year. Historically, Alabama has leveraged the CWSRF just enough to fulfill their 20% match requirements.⁶⁷

Agency Regulations Guiding the CWSRF

Allowable projects and activities under the CWSRF are described in ADEM's Administrative Code. It also includes more information about terms of assistance agreements, application procedures, rules and requirements for projects to proceed with funding, what's not eligible for funding, and the maintenance of the CWSRF.⁶⁸ ADEM's rules describe eligible CWSRF projects as wastewater or stormwater collection, conveyance, and treatment facilities, nonpoint source pollution control management programs, projects implementing a Comprehensive Conservation Management Plan at an estuary, decentralized wastewater systems that treat municipal wastewater or domestic sewage, water conservation and reuse projects, water quality projects at solid waste landfills, green roofs and wetland restoration for stormwater and subsurface drainage projects, refinancing or buying eligible debts, and projects for reuse or recycling of wastewater,

stormwater, or subsurface drainage water. While the CWSRF will fund construction and upgrades of many wastewater and stormwater project types, funds cannot be used for routine laboratory fees and monitoring expenses or operation and maintenance expenses.⁶⁹

ADEM has broad discretion to determine which communities are eligible to receive CWSRF loans. Only public entities are eligible.⁷⁰ To obtain CWSRF funding, a public body must be included on a PPL, must have security for repayment of SRF loans, and must not have defaulted on previous grants or debts.⁷¹ Utilities must also agree to periodically adjust their user fee structure to ensure loan repayment and operating costs are covered, maintain financial records in accordance with government accounting standards, and conduct annual financial audits.⁷² ADEM must be satisfied that the applicant has demonstrated the ability to repay a loan and to operate and maintain facilities for the projected useful life of the project to be eligible for any CWSRFs.⁷³

Inability to Tolerate Rate Adjustments

Alabama's regulatory requirement to periodically adjust user fees and charges is particularly burdensome for the communities trying to improve water infrastructure without burdening their ratepayers. It is understandable that utilities will need to repay loans if not being awarded additional subsidization. However, if individual ratepayers will experience hardship from a rate increase caused by financing a project, ADEM should allow alternatives to rate increases that would not further burden ratepayers with unaffordable sewer bills. Fear of rate increases keeps many communities that would qualify for principal forgiveness from accessing the CWSRF. Additionally, it is unclear if communities awarded loans with 100% forgiveness for CWSRF projects are still required to agree to rate adjustments prior to a project agreement. Alabama should consider incorporating sustainable rate structure practices. EPA offers guidance about financing options for nontraditional CWSRF eligibilities that describes various lending structures and sources of revenue for repayment that allow communities and projects that lack a revenue stream to access the CWSRF.⁷⁴

Preapplication Requirements

Applicants must submit a preapplication to be considered for the CWSRF. ADEM's CWSRF preapplication can be daunting for communities with limited technical and financial resources. ADEM has historically not offered much assistance preparing preapplications or application workshops other than information available on their website and to contact them with questions. Due to the historic funding opportunity, SRF staff increased outreach to advertise funding availability, but getting assistance with preapplication requirements and the application itself can still be difficult. Some communities in unincorporated areas do not have the legal structure and financial documents required for a CWSRF application and are not able to qualify.

CWSRF applicants must have a Preliminary Engineering Report with a proposed project design to be eligible for funding,⁷⁵ and the cost of retaining engineering services can be expensive to sustain during the SRF process. Some engineers may defer fees until loans are awarded or provide services at no cost for communities facing hardship. However, applicants are responsible for funding engineers, and not all engineers can accommodate low-income communities by deferring fees or designing low-cost projects. Additionally, applicants are required to submit audited financial statements for the system they are seeking to upgrade,⁷⁶ which can be expensive and difficult to complete. Applicants in Alabama also navigate the priority point ranking system on their own and self assign their Priority Ranking Criteria, or how important their project should be to ADEM. Documentation must be submitted for points captured, and thus some points are missed due to unfamiliarity or yet-to-be-defined project details. Communities often feel discouraged from applying for project assistance due to the financial and engineering preapplication requirements, especially when they rely on additional subsidization to fund CWSRF projects.

CWSRF Intended Use Plans

Once funds are available, SRF staff at ADEM are responsible for determining the Intended Use Plan (IUP) for that year's funds, reviewing preapplications, and ranking projects by priority on the Project Priority List (PPL). Preapplications are accepted at any time, but applicants seeking subsidy must apply before a date announced by ADEM SRF staff annually.⁷⁷ This subsidy application submission deadline is unknown and it is unclear where the information is available. ADEM publishes

the PPL with the IUP on their public notice website, and this simultaneously notifies the public and selected applicants of the priority projects for funding that year.

Engaging with the IUP Process

After releasing the draft IUPs, ADEM is required to host a public comment period, respond to comments, and submit feedback about comment letters submitted to EPA. Typically, ADEM will allow 30 days to receive public comments. The public notice describes which IUPs are available for comment, how to submit comments and links to the draft IUPs. During the BIL-funded years, ADEM has released, and is expected to continue releasing, three separate IUPs for the CWSRF: the base capitalization grant IUP, the BIL supplement to the base capitalization grant IUP, and the BIL supplement for emerging contaminants IUP. Single comments addressing multiple IUPs are accepted. ADEM historically releases IUPs in bulk but can withhold specific funds until projects are ready to proceed. Advocates might wish to share IUP comments directly with EPA if they want to ensure EPA sees their comments.

Determining the Project Priority List

To inform the PPL for each IUP, ADEM uses the priority points ranking submitted by CWSRF applicants to determine how to prioritize clean water funds. Form 340 is submitted by all CWSRF applicants, regardless of which sub-stream of clean water funding the project seeks. Requests for supplemental funds to complete projects funded in a prior year are automatically given top priority for funding. ADEM does not appear to cap CWSRF loans. Projects are listed in descending order of priority point rating. If two applications have the same priority rank, then the project with lowest median household income will be ranked first.

ADEM's Priority Ranking Criteria, found in the CWSRF preapplication, contains 475 possible points to demonstrate how crucial funding is to fund infrastructure upgrades. Points are available for projects that would address facility compliance issues (up to 50), address water quality issues (up to 135), incorporate water or energy efficiency (up to 65), implement stormwater management (up to 50), or incorporate sustainability into the design (up to 90). Despite the federal requirement that the CWSRF cannot fund growth projects, up to 50 points (10%) can be captured if the project does not include a significant growth component. This ranking matrix offers very few priority points for applicants seeking relief for

decentralized wastewater issues, which makes it extremely difficult for those outside of centralized wastewater treatment areas to access the SRF. Financial need or a project's ability to relieve burdened users does not merit priority points in Alabama. This ranking system should be adjusted to reflect the long-term goals of ADEM and priorities of the BIL regarding affordable wastewater treatment and funding access for communities meeting disadvantaged criteria.

Set-Aside Activities with CWSRFs

Set-asides describe a portion of state revolving funds that Alabama can choose to withhold to support projects and infrastructure activities that are not considered project related activities. Allowable amounts of the CWSRF for set-aside are up to 4% of the annual capitalization grant for program administration and up to 2% for small systems technical assistance, newly available since the BIL. Funding from the BIL that is supplemental to base funding is also eligible to be used for set-aside activities. Examples of set-aside activities for CWSRF projects include planning, design and construction support; supporting agency capacity to process SRF projects; supporting workforce development and certification programs; and offering direct technical assistance to SRF applicants.

ADEM describes the amount of their CWSRF set-aside they have chosen to use in each IUP. The CWSRF base program withheld \$1,125,573 in funds from project assistance for administrative costs. In SFY2022, ADEM decided to withhold \$1,125,573 from the CWSRF for administrative costs, determined based on based on "½ percent of the Total New Position (\$582,786,320)."⁷⁸ However, a plan for the set-aside funds is not available on the IUP. Fiscal reports for the DWSRF and CWSRF programs for 2020 are the most recent available information detailing ADEM's set-aside activities.

The BIL made available, and encouraged states to take advantage of a new ability to set-aside up to 2% of CWSRF funds to offer technical assistance for rural, small, and tribal publicly owned treatment works, particularly in disadvantaged communities.⁷⁹ In the SFY2022 CWSRF IUP, ADEM did not elect to use the 2% CWSRF technical assistance set-aside nor did it indicate whether it intends to utilize it at a later date. In SFY2023 CWSRF IUPs, ADEM chose to use the 2% set-aside for technical assistance but has not announced work plans or ways for applicants to access this assistance. Alabama's CWSRF has the capacity to service only a small number of projects each year compared to its outstanding wastewater infrastructure needs, and the state should consider expanding set-aside

activities to expand SRF capacity and help more projects be ready to proceed by offering technical assistance.

Subsidization of CWSRF Loans

Alabama's CWSRF program offers financial assistance to loan recipients who meet affordability criteria by offering additional subsidization in the form of principal forgiveness on loan repayment. Principal forgiveness assists applicants to reduce the overall size of their SRF loan by forgiving a portion of the principal loan. ADEM has stated that they chose to offer additional subsidization as principal forgiveness instead of grants due to reduced administrative reporting requirements and costs. The percent allowed to be provided as additional subsidy is defined under the CWA as a range from 0 to 30% and is determined by the annual appropriation. In SFY2022, Alabama provided 20% of the CWSRF capitalization grant as additional subsidization for applicants meeting the affordability criteria and an additional 10% of the CWSRF capitalization grant to provide additional subsidies for green infrastructure projects. Principal forgiveness is assigned to the highest ranked qualified applicant in descending rank order on the PPL to those that qualify until the predetermined amount for communities meeting affordability criteria is exhausted.

Issues with Alabama's Affordability Criteria

The CWA requires CWSRF programs to establish affordability criteria for identifying economically disadvantaged applicants based on income data, unemployment, and population trends. ADEM describes their CWSRF affordability criteria and rationale for awarding additional subsidization in a lengthy fourpage attachment to the IUP. Alabama's CWSRF affordability criteria use county-level poverty rate, county level unemployment rate, statewide population trend, and utilization of the Justice40 Mapping Tool. ADEM's Affordability Measure is calculated as a sum of the poverty rate of the county (minus the statewide poverty rate), the unemployment rate of the county (minus the statewide unemployment rate), plus one if the statewide population has increased or plus two if the statewide population decreased, and utilization of the Justice 40 map. It appears applicants are either "in or out" of the additional subsidy criteria and it is unclear how much principal forgiveness is offered if an applicant is "in." In addition to those measures, ADEM will also perform a financial analysis of the community's debt-to-income ratio and a financial sustainability analysis to determine how much SRF loan a community can

afford. It is unclear what ADEM requires for their financial sustainability analysis and how they determine if communities are financially capable to receive a CWSRF loan. Despite questions raised by community groups, ADEM has yet to clarify exactly how the assessment of financial capability is carried out and provide more technical assistance to prepare disadvantaged communities for SRF projects.⁸⁰

Bipartisan Infrastructure Law Funding in Alabama

For the next six years, the CWSRF is bolstered by the funds available through the BIL. Alabama issues these funds through separate IUPs and PPLs each fiscal year. The CWSRF program shares a single application process, which makes it unclear how ADEM prioritizes applicants for base capitalization funds or BIL supplemental funds. Provisions of the BIL require states to permanently increase additional subsidy to at least 10% of the CWSRF capitalization grant, offer 49% of the BIL award as additional subsidy, and issue 100% of the BIL Emerging Contaminants award as additional subsidy. Other provisions are the Build America, Buy America domestic sourcing requirements, expansion of the Clean Watershed Needs Survey, allowing up to 2% of the CWSRF capitalization grant to be used for technical assistance, and an EPA analysis of fund distributions to small and disadvantaged communities. For the supplemental funds to the CWSRF, Alabama issued a separate IUP with a 10% match appropriated by the Alabama state legislature and 9 projects on the PPL in SFY2022.

The BIL establishes a dedicated funding stream to tackle emerging contaminants in the CWSRF. This funding opportunity provides 100% forgivable loans to clean water projects seeking to address discharges of emerging contaminants in wastewater and/or nonpoint sources. Alabama can expect \$52,638,000 to address emerging contaminants over the next few years. ADEM is allowed to set aside a portion of these funds, but has elected not to despite the status of PFAS in drinking water in Alabama. The SFY2022 CWSRF BIL Emerging Contaminants IUP details how Alabama intends to distribute its BIL EC funds to one public entity for facility improvements addressing PFAS-waste streams from water treatment. ADEM is allowed to set aside a portion of these funds, but has elected not to despite the status of PFAS in drinking water in Alabama.

Promoting Green Water Infrastructure

On the CWSRF IUPs, ADEM describes its number one short-term goal is to support green infrastructure investments. To reduce energy and water consumption, states may allocate up to 10% of their SRF funding for projects that incorporate green infrastructure. In SFY2022, ADEM utilized 10% of the CWSRF capitalization grant for green projects and one green project appeared on the PPL. The BIL-funded CWSRF IUP had five projects with green project components. ADEM allows up to 65 priority points (around 13% of total points available) to be captured by projects incorporating water and energy efficiency designs. Alabama should consider incorporating green infrastructure education and offering resources for designing public and professional presentations about the SRF program. While Alabama has historically supported green infrastructure projects, projects typically are traditional designs with water or energy efficiency measures incorporated, rather than designs that truly incorporate nature-based solutions that mimic the earth's water management. **For Alabama to withstand the impending impacts of climate change, ADEM should wholeheartedly support green infrastructure projects and promote statewide planning for future water availability and management.**

Workforce Development with Alabama's CWSRF

Alabama does not describe any workforce development programs or activities in its CWSRF IUPs. Some states use the flexibility available through set-asides and green infrastructure to support workforce development and programs that seek to fill gaps in the water workforce. ADEM should utilize the CWSRF as a mechanism to support a skilled workforce and consider supporting such programs like job training, apprenticeship programs, or youth career education directly or by passing funding to eligible community-based organizations for these activities.

Terms of CWSRF Loans

Terms of assistance for clean water projects in Alabama are customized to each individual project agreement and are influenced by funds available to the CWSRF each fiscal year. Details about terms of SRF assistance are missing from the IUPs and must be found in ADEM's rules. CWSRF loans may be offered for projects up to 100% of allowable project costs

with a range of options regarding loan terms and interest. The principal loan must be repaid before the end of the useful life of the project, or 30 years, and repayments start following the completion of the project construction, or three years after the loan award date. Interest begins incurring as soon as the financial agreement is made. Each CWSRF project will have a financial assistance agreement that details the full terms and schedule of principal and interest repayment for loans. Other states may offer different, relaxed terms for communities meeting affordability criteria to enhance access to DWSRF loans, but this is not practiced in Alabama.

After the IUP, the Project Perspective

Applying for the CWSRF requires a lot of "hurry up and wait." To be eligible to use CWSRF loans, applicants must first submit a completed preapplication, be placed on a Project Priority List, and have a feasible project schedule that coincides with funding availability. Nearly 300 applications have been submitted for CWSRF assistance. As of fall 2023, approximately 57% of projects have been approved or are currently being evaluated.⁸¹ Once a project has been placed on a PPL and IUP, applicants must submit a full application and attachments by a deadline given or agreed-upon with SRF staff to receive CWSRF assistance in that year.⁸² CWSRF loans are eligible to be used for specific project activities that must be agreed upon and only disbursed once project costs have been incurred. The full CWSRF project application requirements are found in ADEM's Administrative Code and are quite lengthy, with full engineering documents, project specifications, agreements with local governments, permits from ADEM, and more. Then, CWSRF funds are only available after project costs have been incurred and must be used on project activities agreed upon with ADEM.

Finally, once all the CWSRF requirements are met and the applicant obtains all necessary federal, state, and local permits, the project can enter an assistance agreement with ADEM. The assistance agreement contains the terms and conditions for repayment that ADEM determines sufficient to maintain the financial integrity of the CWSRF.⁸³ After the assistance agreement is worked out, construction bidding can take place and be started.⁸⁴ CWSRF loans are disbursed on a reimbursement basis, once project costs have been incurred, but no more than once a month.⁸⁵ ADEM typically releases a public notice on its website when a project is ready and funding has been made available to the community. The full assistance agreement, project application, and any related

documentation should be made available for review at this stage. **ADEM's public notices about specific projects are another opportunity for interested advocates to request a public hearing to learn more about project specifications.**

Key Recommendations for Alabama's CWSRF

Recommendation 1: Take steps toward providing service to rural and impoverished areas by establishing a route for SRF funds to support decentralized (onsite) wastewater treatment systems and communities lacking a public entity.

Low population density and high poverty rates present challenges to sustainably financing wastewater management systems in rural areas in Alabama. The Clean Watershed Needs Survey of 2008 estimated that 55% of Alabama is served by centralized services, which means large portions of the state must rely on decentralized services like septic tanks.⁸⁶ Nearly half of households in the Alabama Black Belt are not served by centralized sewer services.⁸⁷ In communities without access to centralized wastewater treatment services, financial burden of and responsibility to repair failing wastewater systems is placed on individual homeowners which can result in unaffordable access to proper wastewater management. Thousands of households without access to centralized services do not have functioning onsite services with some counties having up to 60% of households relying on straight pipes to carry waste from the home.⁸⁸ There are serious public health and water quality consequences that can arise from failing wastewater systems. Households away from centralized services do not traditionally receive ADEM's CWSRF due to how poorly the program is structured to provide loans to decentralized projects.

CWSRF regulations in Alabama already allow decentralized wastewater projects as an eligible project use.⁸⁹ However, decentralized projects are not currently able to capture enough priority points to be prioritized for CWSRF assistance. There is a need for SRFs to be directed to rural, clustered communities that can be serviced by a distributed system and therefore reduce the cost of wastewater treatment for many.

To keep local options open to fit local ownership and utility structure needs, Alabama should expand their CWSRF eligibility to be able to meet wastewater needs of disadvantaged communities lacking a public entity. Alabama should strive to establish a program to address decentralized wastewater systems, either within the CWSRF to offer loans directly to homeowners, or partner with local entities to provide assistance to decentralized projects. To preserve SRF staff capacity and promote program efficiency, ADEM should consider partnering with another entity such as local governments or nonprofits to administer loans for decentralized systems. This entity could receive CWSRF loans from ADEM through project assistance or set-aside activities and distribute funds to homeowners or clustered communities that are otherwise unable to access the CWSRF. Once a decentralized project partnership is established, ADEM should advertise the ability for decentralized projects to receive CWSRF loans in IUPs and beyond. Since these communities are likely to need additional support through the SRF process, Alabama should issue specific guidance or advice for this group of applicants to access financial assistance and perhaps set-aside funding to support these applicants be successful with the SRF.

Why is this needed? CWSRF funds are federally allowed to be awarded to decentralized wastewater treatment projects.⁹⁰ The BIL placed more emphasis on financing decentralized wastewater projects due to the pervasiveness of these systems in the domestic wastewater landscape, and the propensity to contribute to water quality impairment if left in disrepair or not maintained. States have many options for financing decentralized wastewater treatment through the CWSRF, such as setting up a program within the state agencies to issue loans directly to individuals, entering strategic partnerships with local governments or nonprofits for them to offer loans to individuals, sponsoring projects at existing centralized systems to extend services, or partnering with financial institutions to offer alternative financing to small-scale water quality projects.⁹¹

Recommendation 2: Develop robust clean water infrastructure support structures for Alabama utilities by utilizing set-aside activities such as technical assistance, state program management, and small systems training.

ADEM should create an expectation in Alabama that the CWSRF is for more than just project funding; it is also a resource to assist with applications, provide technical assistance, support statewide management with supervision and training resources, and create a clean water infrastructure support system for when issues arise. Alabama typically withholds a portion of the capitalization grant for program administration costs, but that is the extent of its planned set-aside activities for the CWSRF and it is not clear if Alabama offers any assistance directly to SRF applicants. ADEM should elect to take the 2% technical assistance set-aside from its CWSRF capitalization grant to create more programmatic support for wastewater utilities and offer technical assistance. Alabama should proactively provide information about the availability of technical assistance, whether it is available through ADEM or at outside organizations, so advocates and applicants can learn more about what technical, legal, financial, grant writing, and other resources exist.

Chronic wastewater issues in Alabama can be exacerbated by an unavailability of sewage operators. ADEM could support the clean water workforce of Alabama by creating workforce development programs allowable through clean water set-aside activities. These programs can be formed in partnership with educational institutions or nonprofit organizations to train and certify wastewater operators. ADEM should identify areas of Alabama with high workforce needs and institute workforce development in those areas.

Further education of SRF staff and Alabama legislators about usefulness of technical assistance and benefits for delivering loans effectively could persuade Alabama to utilize its allowable set-aside more robustly. ADEM has the ability to use set-asides under its regulatory structure, so it would only need to update its IUPs to be able to offer and deliver more technical assistance. ADEM should also develop detailed set-aside activity work plans for existing and future set-asides.

Recommendation 3: Provide more CWSRF support to communities meeting affordability criteria by adjusting the priority ranking system, offering alternative financing options, and creating a mechanism for pre-application support.

According to SRF staff, CWSRF conversations only begin once a preapplication is submitted. However, for some communities, the resources needed before approaching ADEM for clean water funding (such as engineering designs and financial audits) are burdensome and prevent communities from applying. Additionally, applicants are unaware if they qualify for additional subsidization for paying for their infrastructure upgrades prior to applying for the CWSRF. Alabama should offer more access to the CWSRF for communities meeting affordability criteria by offering technical assistance and reduced financial requirements in addition to prioritizing these projects by assigning priority ranking points.

Alabama should strive to make the CWSRF accessible for disadvantaged communities by proactively identifying communities that qualify for additional subsidization and providing assistance to those communities. ADEM should consider placing a technical assistance form on its website to begin the conversation earlier for utilities that need help prior to applying for the CWSRF. This would essentially create a third step for applications in communities unfamiliar with the SRF process to begin getting assistance prior to submitting their pre-application and full application after being placed on a PPL.

Alabama should also consider offering relaxed financial requirements and extended financing terms for communities that meet affordability criteria. The SRF requirement to adjust sewer rates is difficult for communities that may already have an impoverished, small user base. The SRF project itself does not have to be a source of revenue for repayment, and it is unclear if ADEM allows this. Other revenue sources for repayment from loan recipients to the state can be property taxes, homeowners association fees, entrance fees to parks/recreation areas, land use fees, and even sales taxes.⁹² ADEM can also offer extended loan repayment terms or alternative interest rates for disadvantaged communities that could result in lower rate increases for users. Implementing this change might necessitate a rule-making change at ADEM to provide the flexibility to offer alternative financing options for communities that meet disadvantaged criteria.

Lastly, Alabama should incorporate an applicant's affordability criteria into its project ranking system. Of 475 possible priority points available to CWSRF applicants, no points can be captured for projects serving disadvantaged communities or projects with affordability measures incorporated into project design. Changing the number of priority points able to be captured by communities meeting affordability criteria

could be accomplished by CWSRF staff and notified on the next IUP without needing rule-making. Additionally, ADEM should consider publishing a worksheet for CWSRF applicants to calculate their eligibility, with clarity on data sources and how to access data.

Other areas of concern for Alabama's CWSRF program

Taking into account the outstanding infrastructure needs Alabama has beyond the funds available through the SRF, BIL, and ARPA (and the uncertain future of the SRF in federal budgets), Alabama should consider leveraging its capitalization grants from the EPA and increasing the amount of project funding available each fiscal year. States can leverage their capitalization grants by using them as capital and borrowing from other institutional debt sources to increase SRFs. ADEM did not choose to leverage any of its SFY 2022 SRF or BIL funds.

Hundreds of SRF applicants are currently waiting to be reviewed, approved for DWSRF, and placed on a future IUP. It is unclear how ADEM ranks the waiting pool of applicants between funding rounds. ADEM's regulations say the PPL should be divided into fundable and nonfundable planning portions, with the nonfundable portions including all projects eligible for funding but sufficient funding is not available.⁹³ However, ADEM's SFY2022 CWSRF IUPs do not contain a second list of nonfundable projects. Additionally, it is unclear how ADEM decides to prioritize projects or solicit applications for the BIL supplemental funds. Alabama should consider merging all funding available under the CWSRF to avoid complications and confusion.

With the skyrocketing costs of construction services due to the current funding ability, some states are considering reserving a portion of their CWSRF for future construction cost increases on currently funded projects. A similar measure in Alabama might allow projects to access more funding as construction costs rise and prevent projects from applying for supplemental funding and capturing a large portion of available funds each fiscal year.

Conclusion

Summary: Alabama's SRF programs have the right goals in mind but do not do enough to make them flexible and accessible for nontraditional applicants. While there is an overwhelming statewide need for wastewater and drinking water infrastructure, ADEM has opted to prioritize SRF work, keeping busy with existing demands rather than expanding its program to address nontraditional needs, including those of rural, low income, and historically underfunded communities, as well communities on decentralized wastewater.

State revolving funds are the best mechanism we have to distribute infrastructure funding widely across as many communities as possible. ADEM should take advantage of the funding available from the Bipartisan Infrastructure Law to do everything it can to expand SRF capacity and carry out more projects to meet the existing infrastructure needs of communities and utilities in Alabama.

Recommended next steps for advocacy

- (1) Take steps toward providing SRF loans to underserved communities lacking a public entity by clarifying and possibly expanding SRF eligibility.
- (2) Begin building robust technical assistance and set-aside programs.
- (3) Allow more communities to access the SRF by allowing alternative financial requirements and more prioritization for disadvantaged communities.
- (4) Take advantage of the present funding availability to create long-term action plans for closing water and wastewater infrastructure gaps in Alabama.

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