



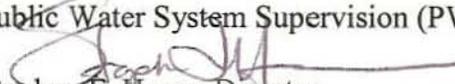
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 11 2007

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Final FY 2008 Guidance and Tentative Grant Allotments to Support Public Water System Supervision (PWSS) Programs on Tribal Lands

FROM: 
Stephen F. Heare, Director
Drinking Water Protection Division, OGWDW (4606M)

TO: Regional Drinking Water Program Managers
Regions I, II, IV - X

Attached for your information and use are final guidance and tentative allotments for the FY2008 Grant Allotments to Support Public Water System Supervision (PWSS) Programs on Tribal Lands. The President's FY 2008 budget request was \$99,100,000 for the entire PWSS program. We would reserve \$6,378,200 of this amount for grants to support PWSS program activities on Tribal Lands. This memorandum provides direction for the use of these anticipated funds and addresses:

- The total amount of FY2008 PWSS Grant funds that would be available to each Region to support its PWSS program on Tribal Lands;
- Any individual Tribal PWSS primacy grants to be set aside for FY2008
- The program areas identified as priorities for the Tribal support program for FY2008; and
- Other information, authorities, or limitations specific to FY2008.

When we get a FY2008 Appropriation and an Operating Plan, we will calculate the final FY2008 allotments. The final allotments will be the same as the tentative allotments unless the funds appropriated for the program differ from the President's budget request. Should that occur, we will recalculate the allotments, using the same statistics (e.g., inventories, population, geographical areas, etc.) as was used to calculate the tentative allotments. The only change will be the amount of money to be distributed.

If you have any questions, please give me a call, or have your staff call Elin Betanzo at (202) 564-1807.

Attachment

Final FY 2008 Guidance and Tentative Grant Allotments to Support Public Water System Supervision (PWSS) Programs on Tribal Lands

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The following guidance is intended to give EPA Regional offices direction on the uses, allowances, and limitations associated with PWSS funds that are reserved to support PWSS Tribal Programs. This guidance replaces all prior PWSS Tribal Program Grant guidance.

1. Background and Authority Granted by the Safe Drinking Water Act

a. General authority granted by Safe Drinking Water Act

The Safe Drinking Water Act (SDWA or the Act) directs EPA to set and enforce standards for public water systems (PWSs) (section 1412). The SDWA also allows EPA to delegate responsibility for implementation of such a program to States (section 1413) and eligible Tribes (section 1451). The Act refers to these as Public Water System Supervision (PWSS) programs. The SDWA also authorizes EPA to award grants to States and Tribes to carry out PWSS programs (section 1443(a)(1)). Section 1443(c)(1) states:

“The term ‘public water system supervision program’ means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under section 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1412, and for keeping records and making reports required by section 1413(a)(3).”

Amendments to the SDWA, enacted on June 19, 1986, authorized EPA to delegate PWSS program responsibility to Tribes, including the authority to provide them with financial assistance to carry out those delegated programs. The *Code of Federal Regulations* (40 CFR 35.673) allows EPA to reserve up to seven percent of public water system supervision funds for Tribal programs.

The purpose of the PWSS grant program is to provide financial assistance to the regulatory agencies that are responsible for carrying out the PWSS programs.

b. Allowances and limitations on use of PWSS (SDWA §1443(a)) funds reserved for Tribal support

- SDWA section 1443(a) provides that PWSS funds must be used to support PWSS programs, which includes Tribal Direct Implementation (DI) programs in the Regions. Funds may not be used for any non-Tribal project or activity. If a Region is unable to obligate all of the funds during the fiscal year in which they were appropriated, they may be carried over to the next fiscal year or be returned for reallocation among the other Regions. Section 2.d of this guidance discusses funds not obligated during the two-year period of availability.
- EPA may use the Tribal set aside of the PWSS program funds to (1) award grants to support the programs of Tribes that have received primary enforcement responsibility (Primacy) for the PWSS program; (2) award grants to assist Tribes with the development of PWSS Primacy programs and individual components of PWSS programs; and, where no grant is awarded, (3) support Tribal program DI activities where EPA is serving as the Primacy agency.

i. Grants to Tribes

- A grant must be to a Tribe or Tribal Consortia. EPA cannot award PWSS funds to any other entity for the purposes of assisting a Tribe in developing, or implementing, a PWSS Primacy Program.

- To be eligible for a PWSS grant to develop a Primacy program or to implement a Primacy program, a Tribe must have applied for, and been granted, “Treatment as a State” (TAS) as provided for in the SDWA §1451. TAS is further addressed in regulation, at 40 CFR 35.676 and 40 CFR 142.72-78. As of FY 2008, only the Navajo Nation has received Primacy and therefore will receive a PWSS grant. No Tribes have requested a PWSS grant to develop a Primacy program, although two Tribes (Standing Rock Sioux and Fort Belknap) have TAS.
- A grant to a Tribe cannot be for the purpose of assisting EPA in directly implementing a PWSS program in the absence of an approved Tribal program. If EPA wants to provide PWSS funds to a Tribe to assist EPA in directly implementing a PWSS program, the appropriate funding vehicle is a Direct Implementation Tribal Cooperative Agreement (DITCA). See *Guidelines for Direct Implementation Tribal Cooperative Agreements (DITCAs)* (November 24, 2004) and discussion below in section 1.b.ii of this guidance.
- A Tribe can be awarded PWSS grants to develop a Primacy program for a maximum duration of 3 years. This limitation is regulatory (40 CFR 35.678).
- Awards of PWSS grants to develop Primacy programs, or to implement Primacy programs, to a Tribe must be made using the grant award authority of SDWA section 1443(a). Other grant authorities (e.g., SDWA section 1442) are not appropriate.
- The appropriate *Catalog of Federal Domestic Assistance* (CFDA) citation is 66.432 (State Public Water System Supervision). Other CFDA cites are not appropriate.
- Awards of PWSS grants to Tribes to develop Primacy programs, or to implement Primacy programs, require a Tribal match. A PWSS grant may not cover more than 75% of the grant recipients’ costs. The Tribal match can be in the form of dollars or in-kind services. EPA may increase the maximum Federal share to 90% if the Tribe or Intertribal Consortium can demonstrate that fiscal circumstances within the Tribe or Consortium are constrained to such an extent that fulfilling the match requirement would impose undue hardship (40 CFR 35.675).
- Awards of PWSS grants to a Tribe are exempt from the Agency’s grants competition requirements under EPA Order 5700.5A1 *Policy for Competition of Assistance Agreements*.

ii. Direct Implementation (DI) by EPA

- Public Law 105-65 (EPA’s Appropriation Act for FY 1998) provides EPA with ‘general’ authority to use State and Tribal Assistance Grant (“STAG”) funds appropriated for State and Tribal categorical grant programs for DI of environmental programs required by law in the absence of an acceptable State or Tribal program.
- PWSS Tribal Program funds must be used to assist EPA in fulfilling its DI responsibilities. The funds shall be used to carry out programs that EPA is responsible for in the absence of an approved Primacy program. This includes programs authorized under SDWA for which States can use a percentage of their DWSRF funding, but no equivalent funding source exists for Tribal programs. PWSS Tribal Program funds should be used for conducting activities such as those described in 40 CFR 142.10,

which are typically carried out by a Primacy agency, including but not limited to the following:

- Providing technical assistance to owners and operators of water systems;
 - Maintaining compliance data systems;
 - Compiling and analyzing compliance information;
 - Responding to violations;
 - Certifying laboratories;
 - Conducting laboratory analyses;
 - Conducting sanitary surveys;
 - Conducting source water assessments (as described in section 1453 of the SDWA);
 - Implementing operator certification programs (as described in section 1419 of the SDWA); and
 - Implementing capacity development programs (as described in section 1420(c) of the SDWA).
- Inappropriate uses of PWSS Tribal Program funds include but are not limited to:
- Use of funds for non-Tribal activities;
 - Planned spending that does not include a program priority area (see section 3.c of this guidance) where a clear need exists in the Region (e.g., no planned spending on Source Water Assessments when required assessments have not yet been completed); and
 - Treatment feasibility studies or infrastructure upgrades.
- The available authorities and funding vehicles for using PWSS grant funds to assist EPA in carrying out its DI responsibilities are:

Contracts: EPA can use PWSS Tribal grant funds to award a contract to assist it in carrying out its PWSS Tribal DI program responsibilities. This includes equipment and supplies. (All Federal agencies have inherent authority to award contracts).

Senior Environmental Employment (SEE) Cooperative Agreements: EPA can use PWSS Tribal grant funds to supplement a Senior Environmental Employment (SEE) cooperative agreement to assist the Agency in carrying out its PWSS Tribal DI programs. (The Environmental Programs Assistance Act, Public Law 98-313, provides EPA authority for SEE cooperative agreements.)

Interagency Agreements (IAGs): EPA can transfer PWSS Tribal grant funds, through an Interagency Agreement (IAG), to another Federal Agency to assist EPA in carrying out its PWSS Tribal DI programs (SDWA section 1450(b)).

Direct Implementation Tribal Cooperative Agreements (DITCA): EPA can award a DITCA to a Tribe to assist the Agency in carrying out its PWSS Tribal DI program. A Tribe may receive both a DITCA to assist EPA with DI and a grant to assist it with developing a PWSS Primacy program. Once a Tribe receives Primacy, however, it is no longer eligible to receive a DITCA. No Tribal match is required to obtain a DITCA. (The authority to award a DITCA is provided to EPA annually in the administrative provisions of the STAG appropriation and is not a permanent authority.) The appropriate CFDA citation is 66.926 (DITCA).

- EPA does not have the authority to use PWSS STAG funds to award an “assistance agreement” (other than the above mentioned cooperative agreements for SEE support or DITCAs) to assist the Agency in carrying out its DI responsibilities. “Assistance agreements” are either grants or cooperative agreements. IAGs are not included in the definition of assistance agreements.

2. Process For Allotment, Distribution, And Management Of Funds

a. Allotment formula and formula factors

The Regional allotments were calculated using the formulas contained in Attachment A of this guidance. Five categories of data, or factors, are used in the formulas that allot the PWSS Tribal Program funds among the Regional offices and Tribes with Primacy. Those factors are:

- the number of Indian Land community water systems (for which the Region is the Primacy Agent);
- the number of Indian Land nontransient noncommunity water systems (for which the Region is the Primacy Agent);
- the number of Indian Land transient noncommunity water systems (for which the Region is the Primacy Agent);
- the Indian Land population within the Region; and
- the Indian Land geographical area within the Region.

The numbers of PWSs have been, and will continue to be, obtained from the Safe Drinking Water Information System (SDWIS) database. The information on populations and geographical areas comes from the US Census Bureau via the “*Census 2000*.” Until a more current set of data becomes available, we will use the *Census 2000* as the source of the population and geographical data in calculating the PWSS Tribal Program allotments.

b. Process and schedule for allotment of funds among EPA Regions

- When the President announces the annual budget request for the coming Federal fiscal year, the Office of Ground Water and Drinking Water (OGWDW) will identify the percentage/amount of funds that it plans to reserve for the PWSS Tribal Program for the coming year. This is typically 6.44% of the total amount available to the PWSS program.
- Shortly after the budget request is released, OGWDW will calculate the individual Regional allotments of the tentative funds among the Regions. At this stage the allotments are tentative since they are based on the budget request and there is no guarantee that the appropriation will equal the request.
- OGWDW will provide the tentative allotment information to the Regions and will provide any additional direction on the use of the anticipated funds that may be appropriate for the coming fiscal year (Section 3 of this guidance).

- When EPA receives its appropriation and establishes its operating plan for the fiscal year, OGWDW will recalculate the PWSS Tribal Program allotments based on the amount of funds actually available for the PWSS grant program. These will be the final allotments.
- The final allotment funds will be provided to the Regions as soon as they are available for release. A typical schedule is provided in Attachment B of this guidance.

c. Regional management of funds

- Awards using PWSS Tribal Program funds must adhere to all applicable EPA Orders, and must be directed toward achieving the goals outlined in the EPA *Strategic Plan* and the *National Water Program Guidance* for the fiscal year.
- Regions are responsible for managing and tracking the funds allotted for the program.
- Regions are expected to make every effort to obligate all of the funds during the fiscal year in which the funds were appropriated. If all funds are not obligated during the initial fiscal year, Regions will be responsible for initiating carry over requests.
- Regions must report their use of PWSS Tribal Program funds as specified in Section 2.e of this guidance.
- All the PWSS Tribal funds must be used to support the Region's PWSS Tribal Program. Funds may not be used for any non-Tribal project or activity.
- Funds allotted to Regions in response to their requests for Tribal Primacy (e.g., the Navajo Nation) must be used for the requested purposes, or must be reprogrammed to Headquarters for redistribution among all Regions.

d. Duration/Availability of funds

- While the PWSS Tribal Program funds do not expire after any period of time (they are “no year” funds), Regions should try to obligate all of the funds during the fiscal year in which the funds were appropriated. While it will be EPA’s policy to keep all of the funds reserved for the PWSS Tribal Program within the program, OGWDW also believes that it is appropriate to set some time limit on the use of the funds. Therefore, it is EPA’s policy that the PWSS Tribal Program funds will be available to the EPA Regional Offices to which they were originally allotted during the fiscal year in which they were appropriated and during the following fiscal year. For example: funds appropriated in FY 2007 will be available to the EPA Regional Offices during FY 2007 and FY 2008.
- EPA Regional Offices must report their use of funds to OGWDW as specified in Section 2.e of this guidance. If an EPA Region does not report their use of PWSS Tribal Program funds, OGWDW will assume that the funds have not been obligated. The Region must provide a justification for any fiscal year funds originally allotted to a Region that are not obligated by that Region during the specified two-year period of availability in order to retain the funds. If the Region does not provide a justification or does not report, OGWDW will pursue one of the following options:

- a. funds **may** be recalled and re-allotted by OGWDW to those Regions that have obligated all of the funds originally allotted to them for the same specified period, or
- b. an equivalent amount of funds **may** be subtracted from the Region's following fiscal year allotment.

e. Reports to OGWDW

- OGWDW has responsibility for allotting PWSS funds, including Tribal Set-Asides, and must account for Regional spending.
- Regions must provide a brief description (≤ 1 page) of their spending plans for the fiscal year to the OGWDW Tribal Coordinator via email within 90 days of receiving their tentative fiscal year allotment. The description must include a discussion of how the Region plans to address regional and national program priority areas as discussed in Section 3.b and 3.c of this guidance. The Tribal Coordinator will review the plans to ensure the funds will be used for appropriate PWSS Tribal Program activities and priority areas in accordance with the allowances and limitations discussed in Section 1.b of this guidance. If the Region does not submit a spending plan or the spending plan includes activities that are not consistent with the priority areas discussed in Section 3.b and 3.c or the allowances and limitations discussed in Section 1.b. of this guidance, OGWDW will not release the final allotment to the Region until an acceptable spending plan is received.
- Regions must enter data into the Tribal PWSS and Drinking Water Infrastructure Grant (DWIG) Tribal Set Aside (TSA) Grant Tracking Tool (GTT) to describe the projects and services funded using the PWSS Tribal Program funds that they are allotted each year.
 - At a minimum, the reports shall be prepared once per year, within 120 days after the end of the fiscal year (e.g., FY 2007 reports should be complete by Feb. 1, 2008). Regions are encouraged to report more frequently.
 - The data must include:
 1. The total amount of carryover funds from the prior fiscal year.
 2. Basic information about each project/activity for which funds were obligated during the fiscal year (fields in quotes are in the GTT), including:
 - a "Project ID" identification number (e.g., grant or contract number),
 - a "Project Description" for the activity,
 - the "Project Officer" for the activity
 - the "Recipient of Funds,"
 - the "Tribe (or Tribes) Benefiting" from the project/activity,
 - the "Funding Vehicle" (e.g., grant, IAG, contract, etc.),
 - the program "Funding Area" (i.e., Tribal Primacy and Primacy Development; Regional DI; Alaska Native Village (ANV) support; Operator Certification; Capacity Development; Source Water Assessment Programs, etc.),
 - the "EPA amount of award" obligated for the project/activity, and
 - the "Project Status."

3. The amount of funds that were not obligated during the fiscal year that will be carried forward into the subsequent fiscal year. All funds directed to the Region for PWSS Tribal Programs must be accounted for.

f. EPA Order 5700.7: Environmental Results Under Assistance Agreements

As you consider and negotiate assistance agreements and DITCAs for your PWSS Tribal Program, you need to ensure that any agreements and work plans are focused toward achieving the goals outlined in EPA's FY 2006 -2011 *Strategic Plan* and EPA Order 5700.7, *Environmental Results Under Assistance Agreements*. This Order applies to all non-competitive funding packages and funding recommendations submitted to the Grants Management Offices after January 1, 2005. The Order requires EPA Program Offices to:

1. link proposed assistance agreements to the Agency's Strategic Plan/GPRA architecture at the goal, objective, and, where appropriate, sub-objective level;
2. ensure that well-defined outputs and, to the maximum extent practicable, well-defined outcomes are appropriately addressed in assistance agreement work plans and funding recommendations; and
3. ensure that progress in achieving agreed-upon outputs and outcomes is adequately addressed in recipient progress reports and advanced monitoring activities.

3. FY 2008 Specific Guidance

a. Amount of funds reserved for the PWSS Tribal Program:

Based on the tentative FY 2008 budget of \$99,100,000 for the PWSS program, a total of \$6,378,200 will be reserved for the PWSS Tribal Program. The reserve is 6.44% of the total amount available for the PWSS program - the same percentage as has been set aside for the past several years. Based on the tentative budget, we will allocate \$453,000 of the total to Region 9 for the Navajo Nation's Primacy grant. In previous years, an additional set-aside was allocated for Alaska Native Villages (ANVs). This allocation was not included in the FY 2008 allotments because ANV PWSs are included in the PWSS allocation for the State of Alaska.

OGWDW plans on distributing the entire FY 2008 PWSS Tribal reserve to the Regional offices. As a result, there will be no funds available in Headquarters for unscheduled activities.

b. EPA's 2006 – 2011 Strategic Plan and the National Water Program Guidance for FY 2008

Regions must ensure that any use of the funds, including any program plans and agreements made between the Region and the Tribes are directed toward achieving the public health objectives presented in EPA's 2006-2011 *Strategic Plan* http://www.epa.gov/ocfo/plan/2006/entire_report.pdf and the Office of Water's *National Water Program Guidance* <http://www.epa.gov/ocfo/npmguidance/index.htm>. The National Water Program Guidance has been issued in concert with Goal 2 of the Strategic Plan and the subsequent subobjectives, strategic targets, and performance activity measures.

The PWSS Program Strategic Targets (related to Tribes) for FY 2008 are:

- 87% of the population served by community water systems in Indian country will receive drinking water that meets all applicable health-based drinking water standards
- The number of households on Tribal lands lacking access to safe drinking water will be reduced from the FY 2003 baseline of 39,000 to 30,587 by the end of FY 2008.

The PWSS Program Activity Measure (related to Tribes) for FY 2008 is:

- By the end of FY 2008, 39 Tribal community water systems with surface water sources will have undergone a sanitary survey within the past three years.

c. Program Priority Areas for FY 2008

For FY 2008, OGWDW updated the program priority areas that have been the PWSS Tribal priorities for the past few years. They are:

- Arsenic and Microbial regulation implementation;
- Tribal Capacity Development Program support;
- Tribal Operator Certification Program support;
- Tribal Source Water Assessment Program support; and
- Regional DI Program support.

Although these are the nationally identified priority areas for FY 2008, each Region has the authority to direct a portion of their PWSS Tribal Program allotment towards other PWSS Tribal Program activities if the Region believes that is appropriate for its Tribal program needs. Funds must be used for appropriate PWSS Tribal Program activities in accordance with the allowances and limitations discussed in Section 1.b of this guidance and must be described in a spending plan. OGWDW will not release the final allotment to the Region until an acceptable spending plan is received.

OGWDW measures the percentage of community waters systems in Indian country that receive drinking water that meets all applicable health-based drinking water standards, and EPA implementation of the arsenic and microbial regulations leads to improved compliance with these health-based standards. In addition, DI Program support contributes to this goal by improving understanding and awareness of existing drinking water regulations. DI Program support also helps achieve the PWSS Program Activity Measure for completing sanitary surveys.

OGWDW measures progress toward the strategic target of reducing the number of homes on Tribal lands lacking access to safe drinking water. The PWSS Tribal Program funds contribute towards this goal when Regions focus their Capacity Development programs on Tribal utilities, where lack of technical, managerial, and financial capacity limit the utility's ability to provide access to safe drinking water. Improved utility development through use of PWSS Tribal Program funds are intended to reduce the number of deficiency level 4 or 5 homes listed in the Indian Health Service Sanitation Deficiency System database by ensuring Tribal utilities have the technical, managerial, and financial capacity to supply safe water to the Tribal homes they serve.

In addition, drinking water Operator Certification programs are another opportunity for Regions to work with Tribes to assist utilities with chronic violation problems that may be limiting access to safe drinking water at Tribal homes that are connected to PWSs. Regions can use PWSS funds to reach out

to operators and encourage them to achieve and maintain certification through the national Tribal Operator Certification program.

Information from source water assessments completed under the PWSS Tribal Program can be used to identify low cost or non-infrastructure solutions to providing access to safe drinking water, such as changing pesticides and pesticide application processes, fencing out livestock, identifying a need for septic system inspections and maintenance, and providing secondary containment for new and replacement of underground storage tanks (USTs).

While we recognize the need to provide flexibility to Regions and Tribes, we believe that all Tribal and Regional DI Programs should be focused on ensuring that the gains of the previous years' efforts are preserved and built upon. The overall objective of the PWSS program is to protect public health by ensuring that:

- drinking water systems, of all types, and of all sizes, that are currently in compliance, remain in compliance;
- drinking water systems, of all types, and of all sizes, that are not currently in compliance, achieve compliance; and
- drinking water systems, of all types, and of all sizes, are preparing to comply with new drinking water regulations, including the Stage 2 Disinfectants and Disinfection Byproducts, Long Term 2 Enhanced Surface Water Treatment, Radionuclides, and Ground Water rules.

Also, even though we have made progress toward improving the national drinking water data quality, we still have significant work to do in this area. Improving data quality should be an integral component of any project or activity funded with PWSS Tribal Program money, and Regions can also designate a portion of their PWSS Tribal Program allotment for data management to ensure that data quality and other data problems are being addressed by Tribal and Regional DI programs. Specifically that:

- Tribal water system compliance determinations are consistent with the Federal regulations; and
- The required Tribal water system inventory, compliance, and enforcement data being provided to EPA HQ is accurate and complete.

d. Tentative program allotments for FY 2008

The Regional PWSS Tribal Program tentative allotments for FY 2008 are:

Region	TOTALS
1	\$118,200
2	\$118,200
4	\$238,800
5	\$670,700
6	\$595,800
7	\$118,200
8	\$1,058,300
9	\$2,215,800
10	\$791,200
Navajo	\$453,000
TOTALS	\$6,378,200

Attachment A: Explanation of Formulas for Allotting PWSS Tribal Program Funds

1. The PWSS Tribal Program Formulas are based on 5 factors for each Region:
 - Number of Community Water Systems (CWS)
 - Number of Non Transient Noncommunity Water Systems (NTNCWS)
 - Number of Transient Noncommunity Water Systems (TNCWS)
 - Square Miles of Geographical Area
 - Population

The numbers of CWSs, NTNCWSs, and TNCWSs is obtained from inventories reported by EPA Regions, and contained in the Safe Drinking Water Information System (SDWIS). The information on populations and geographical areas comes from the US Census Bureau via the "Census 2000." The same factors are used for the two formulas (DI and Program Support formulas) that allocate the Regional allotments.

The allotment for Tribes with Primacy is calculated first, and the remaining funds are divided in half and distributed through the DI and Program Support formulas. Statistics attributable to Tribes that already have Primacy for the PWSS program are not included in the DI calculation as the purpose of these funds is to assist Regions with DI. Statistics for ALL Tribes (including those that already have Primacy for the PWSS program) are included in the Program Support formula (the Program Support formula allocates funds for Operator Certification, Capacity Development, and Source Water Protection programs in the Regions).

2. Each factor has a different weight. The same weights are used for both the DI formula and the Program Support formula. The weights assigned to each factor are:
 - CWSs & NTNCWS 56% of total
 - TNCWS 14% of total
 - Population 20% of total
 - Geographical Area 10% of total

3. The first step for each formula is to compute a "factor percentage" for each Region. The "factor percentage" is different in the DI and Program Support formulas due to the different total number of systems included in each formula. The formula for each Region's "factor percentage" is:

$$\begin{aligned} & [(\# \text{ CWS} + \# \text{ NTNCWS in Region}) \div (\# \text{ CWS} + \# \text{ NTNCWS in Nation})] \times [.56] + \\ & [\# \text{ TNCWS in Region} \div \# \text{ TNCWS in Nation}] \times [.14] + \\ & [\text{Population in Region} \div \text{Population in Nation}] \times [.20] + \\ & [\text{Geographical Area in Region} \div \text{Geographical Area in Nation}] \times [.10] \end{aligned}$$

4. The second step is to calculate the "factor allocation" for each Region. The factor allocation is calculated by multiplying each Region's "factor percentage" by the total amount of funds being allotted for the Regional PWSS Tribal DI or Program Support programs for the fiscal year.

5. The third step is to calculate the "minimum allocation" that each Region is eligible for. This minimum is 2% of the total amount reserved for the Regional DI program. Finally, a "safety-net" is calculated for each Region. This "safety-net" is 95% of the previous year's PWSS Tribal allocation. The "safety-net" is used as the "minimum allocation" if it is greater than the "minimum allocation." If a Region does not use funds appropriately, the "safety-net" will not apply for that Region in the following year.

6. Since the "minimum allocation" of some Regions will be greater than that Region's "factor allocation," additional funds will be needed to overcome the shortfall. This shortfall is obtained from the allocations of those Regions with "factor allocations" greater than the "minimum allocations." The amount of funds that a Region must contribute to overcome the shortages is equal to:

["factor allocation" for the Region minus the "minimum allocation" for the Region] multiplied by [the total \$ short of the minimums (sum of all Regions) divided by the total \$ above the minimums (sum of all Regions)]

- For Regions whose "factor allocation" is less than the "minimum allocation" -- the Regional PWSS Tribal Program allotment is the "minimum allocation".
- For Regions whose "factor allocation" is greater than the "minimum allocation" -- the Regional PWSS Tribal Program allotment is the "factor allocation" less the adjustment explained above.

Attachment B: Typical Cycle for Information Collection, Allotment Calculation, and Regional Reporting (using the FY 2008 cycle as an example)

Oct 1 - Dec 31 2006	<ul style="list-style-type: none"> ▪ Regions submit Tribal PWS inventory updates (or replacements) to SDWIS/FED. <i>Regions are responsible for reviewing & ensuring that the Tribal system inventories are accurate.</i>
Early January 2007	<ul style="list-style-type: none"> ▪ OGWDW produces a Report of Current and Active systems that meet the Federal definition of a PWS, based on the information in SDWIS/FED as of January 1, 2007, which will be used to calculate the FY 2008 tentative and final allotments.
January 15, 2007	<ul style="list-style-type: none"> ▪ Regions let OGWDW know which Tribes will be seeking PWSS grants to develop Primacy programs, or to implement Primacy programs, for the coming fiscal year, and the amount that the Region requests for those grants.
February, 2007	<ul style="list-style-type: none"> ▪ OGWDW determines the FY 2008 tentative amount/percent of funds to be reserved for the PWSS Tribal Program.
Spring/Summer, 2007	<ul style="list-style-type: none"> ▪ OGWDW informs the Regions of the FY 2008 tentative PWSS Tribal Program allotments. ▪ Regions provide a description of their spending plans for the fiscal year to the OGWDW Tribal Coordinator within 90 days of receiving the tentative fiscal year allotment.
Autumn, 2007	<ul style="list-style-type: none"> ▪ As soon as: <ol style="list-style-type: none"> a) Congress appropriates funds, b) OMB apportions the appropriation, and c) EPA's Comptroller informs program offices that funds are available for reprogramming, <p>OGWDW calculates, and informs Regions of, the Final FY 2008 PWSS Tribal Program Allotments. The same water systems inventories, population estimates, and geographical areas that were used in computing the Tentative allotments are used in computing the Final allotments.</p>
Oct. 2007 – Sept. 2008	<ul style="list-style-type: none"> ▪ Regions use PWSS Tribal funds as specified in the <i>FY 2008 Guidance for EPA's Grants to Support Public Water System Supervision Programs (PWSS) on Tribal Lands</i>
Jan/Feb, 2009	<ul style="list-style-type: none"> ▪ Regions submit data on use of FY 2008 funds in the Tribal PWSS and DWIG TSA GTT.
March, 2009	<ul style="list-style-type: none"> ▪ OGWDW reviews GTT data to determine whether changes can be made to improve the PWSS Tribal Program