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May 17, 2024

Michael Deane
Chief, Clean Water State Revolving Fund
U.S. Environmental Protection Agency
William Jefferson Clinton Bldg Room: EPA East Room 1309
Washington, DC 20004

Submitted via email: communitygrantsHQ@epa.gov

Dear Mr. Deane:

The Association of Clean Water Administrators (ACWA) is the independent, nonpartisan, national organization of state, interstate, and territorial water program managers (hereafter referred to simply as “states”), who on a daily basis implement the clean water quality programs of the Clean Water Act (CWA). We appreciate the opportunity to share the following comments as the agency prepares its report to congress on community projects/ congressional delegated spending.

ACWA worked to solicit robust feedback from its member states and interstates. However, the brief turnaround time between EPA’s listening sessions and the deadline for submitting feedback, many of ACWA’s members were unable to formally provide comments to ACWA to share with EPA.

Anecdotally, many of ACWA’s members have indicated that they do not have an interest in assuming responsibility for community projects/ congressionally directed spending. ACWA’s members were unable to provide thoughtful feedback because there was not ample time to consider the request and because EPA did not provide sufficient details for ACWA’s members to evaluate the opportunities and challenges administering these projects would raise. A great deal of time passed (~ 50+ days) before the Office of Water reached out to states for input and that did not leave ACWA’s members with the time to appropriately and thoughtfully consider the questions presented by EPA and shepherd that feedback through state review processes. We strongly

encourage the agency to include this in the final report that is shared with Congress.

ACWA did receive specific feedback from two states that likely represent the view of many of our member states. These comments are reflected below.

Response #1

These Community Grants represent a collaboration between the Federal Government and local government, bypassing the well-established vetting processes of each State's effectively operating SRF's. The consequence of these Community Grants has been to undercut the capitalization grants, and thus, the ability of State SRF's to provide financing to the burgeoning demand of worthy infrastructure projects for communities of all sizes. Redirecting state human resources away from the SRFs to manage these Community Grant adds insult to injury. The state's priority continues to be to nurse the SRFs back to functional levels; there is no staff bandwidth, pragmatically or philosophically, to take on the role of managing Community Grants that were not of our choosing.

The anticipated 0.7% of Community Grant funding is a paltry amount that would be insufficient to supplement state staff support for grant management. The standard has been 4% of capitalization grants for the Drinking Water SRF for administrative purposes. Even such, the amounts being offered are the epitome of "soft" money; earmarked projects have a finite span; when they're complete and the grants have been executed to conclusion, any administrative set-aside evaporates. What is to become of the newly minted state staff brought on to administer these grants? Either they are kicked to the curb with cessation of funding, or, more likely, state agencies scramble to find another position to place that individual. Sometimes that is fortuitous timing to fill vacancies, sometimes, we must create a position, which incurs new cost on our other programs.

Our experience with Federal funding of infrastructure with the SRFs is that no project is "shovel ready". There is a myriad of required steps, outlined in the examples provided by Question 2, to execute these grants over time. Again, existing staff toil with moving SRF funding out to projects, the lift expected to expedite the delivery of Community Grants is not marginal, it is a wholesale add on of new tasks that can only be accommodated by neglecting other tasks, most of which constituted the assigned responsibilities of those staff.

It is for these reasons that this state maintains a position of no interest in taking on the responsibility of managing Community Grants. Since we were of no

consequence in that process and the repercussions of these grants has been to harm the integrity of the SRF program, we will leave it to the Federal and local governments on how to execute and deliver on those grants bestowed upon the select few projects. We will continue to serve those communities that did not curry favor from Congress as best we can with the resources we have on hand.

Response #2

Question 1.

“No. Managing the earmarked projects for our state would require a great deal of resources to provide the oversight needed as many of the projects were/are not shovel-ready. There would be new projects added to our already full workloads. Also, if the projects are not currently listed on the states Project Priority List (PPL) or Intended Use Plan (IUP), the projects are not among our state’s highest priority wastewater projects.”

Question 2.

“To be interested in managing earmarked projects, items that the state believes should be considered when deciding which projects and/or parts of projects that the state would implement:

- Earmarked projects should have an approved Facilities Plan and certified plans and specs. Projects should be fully designed to meet water quality and design standard requirements.
- Consideration of the states PPL and IUP: Projects need to align with the state’s ranked list of high priority wastewater projects where the municipality has demonstrated that the project is ready, and it has been determined to be a priority through the states scoring criteria for the PPL. To our knowledge, this hasn’t happened with any of the earmarked projects for our state.
- Funding to support resources needed for oversight responsibilities: Construction projects that are in addition to the projects being prioritized and funded through the state’s SRF program will result in additional engineering, technical review and permitting that was not accounted for within our existing state’s resources. As a result, states should receive federal funding to cover the resources needed to provide the engineering, technical review, and permitting needed to support implementation of the funding and construction of the projects by the municipalities.
- Funding to provide additional management responsibilities: If states are asked to complete management responsibilities beyond the existing responsibilities of engineering, technical review and permitting, a consultant would need to be hired to complete those responsibilities (project inspections, bid solicitation and contract doc, audit resolution, NEPA

compliance, etc.). Funding should be provided in the form of a grant to fully cover the cost of hiring a consultant.”

Question 3.

“This question is almost impossible to answer directly. There are 34 earmarked projects in our state. We do not know the scope and scale of the construction involved in each of these projects. We also do not have any idea what a consultant would charge to manage these projects, how many years the funding would have to span, and how much oversight work would be needed on the state side to oversee the consultant contract. We would need to know these elements to determine if \$12,000 per project is sufficient for oversight costs. Consultants can easily cost \$120/hr and so a \$12,000 budget would pay for 2.5 weeks of a consultant’s time. This seems woefully inadequate when you consider meeting and travel costs to the site for the months leading up to construction and then during construction. It would leave nothing to recompense the state for their time overseeing consultant work.”

Question 4.

“--Earmarked projects should have an approved Facilities Plan and certified plans and specs. Projects should be fully designed to meet water quality and design standard requirements.

- Project prioritization and readiness: In the future, if projects are selected for earmarks there must be steps that require congressmen to coordinate with state SRF programs to ensure that projects selected are prioritized within the state (included on the PPL and IUP) and are ready to receive the funding.
- Funding: If states are asked to apply for grant funding to manage projects, access to funding must be easy to apply for and manage. Also, it is important to ensure that any funding is available for a period of time that is long enough to cover the work for these multi-year projects. EPA often only partially funds states to do the work asked of them – funding provided to states must fully cover the cost to manage these projects.
- Continued success of implementing the state SRF Program: The requirement to manage these federal earmarked projects must not negatively impact the state’s ability to manage their own SRF program – there should be some way that states can opt out of managing projects if this is a risk or is occurring.”

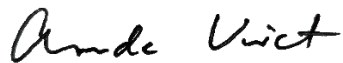
Question 5.

“--Making states take on the burden of managing earmarked projects will make it easier on congress but will only increase the use of this pathway to fund wastewater projects.

- Funding these earmarked projects takes funding away from the state CWRP process. The state CWRP process is intended to fund the highest priority projects within each state to ensure human health and water quality is adequately protected.
- This current process circumvents the state's own SRF process and if there is no requirement for congressmen to work collaboratively with their state's SRF program, this means that diminished funding will continue to be available on the state level to pay for truly high priority wastewater projects that are ready to go.
- Municipalities would not be able to rely on federal funding to help make upgrades to meet new permits limits, and this would result in a delay in achieving water quality improvements or an inability to do so.
- The burden of managing earmarked project is likely to have impacts to state SRF programs and create conflicts with managing SRF-chosen projects.
- Earmarks also result in reduced funding to other state programs that are ancillary to SRF (i.e., 604b). “

Though ACWA's process to develop comments is robust and intended to capture the diverse perspectives of the states/intestates that implement these programs, EPA should always consider the comments and recommendations that come directly from states, interstates, and territories as well. The agency also needs to recognize and share with Congress that the state coregulators were not provided with sufficient time to provide thoughtful comments. Please contact ACWA's Executive Director, Julia Anastasio, at janastasio@acwa-us.org or (202) 756-0600 with any questions regarding ACWA's comments.

Sincerely,



Amanda Vincent
ACWA President

Sincerely,

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