



THE CHIEF FINANCIAL OFFICER

WASHINGTON, D.C. 20460

October 30, 2024

The Honorable Mike Simpson
Chair, Subcommittee on Interior,
Environment, and Related Agencies
Committee on Appropriations
House of Representatives
Washington, D.C. 20515

The Honorable Chellie Pingree
Ranking Member, Subcommittee on Interior,
Environment, and Related Agencies
Committee on Appropriations
House of Representatives
Washington, D.C. 20515

The Honorable Jeff Merkley
Chair, Subcommittee on Interior,
Environment, and Related Agencies
Committee on Appropriations
United States Senate
Washington, D.C. 20510

The Honorable Lisa Murkowski
Ranking Member, Subcommittee on Interior,
Environment, and Related Agencies
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Chairman, Chair, and Ranking Members:

Enclosed please find the U.S. Environmental Protection Agency's Fiscal Year 2024 Report to Congress on Community Project Funding and Congressionally Directed Spending provisions. The Joint Explanatory Statement accompanying the *Consolidated Appropriations Act, 2024* (Public Law 118-42) stated:

The Committees remain concerned that EPA does not have sufficient resources necessary to expeditiously implement this program and fully support recipients as they address applicable Federal grant requirements. Accordingly, the agreement provides \$13,300,000 in funding for salaries, expenses, and administration for Congressionally Directed Spending and Community Project Funding grants provided in fiscal year 2022 and fiscal year 2023 and this Act. While the Committees appreciate the technical assistance the Agency has provided in recent months, the Committees remain concerned that more work is needed to resolve the Agency's significant backlog of projects, as discussed in the fiscal year 2024 Senate appropriations hearing. Required by a provision in the bill, the Committees direct the Agency to provide a briefing within 45 days and a subsequent report within 90 days of enactment of this Act proposing efficient solutions for substantially increasing the Agency's effectiveness

and timeliness in administering Community Project Funding and Congressionally Directed Spending projects. This briefing and report must include: ways to streamline environmental reviews, additional statutory authority that may be helpful to the Agency, and any additional options the Agency sees fit to recommend to the Committees, other than increased staffing at the Agency. The report must include detailed legislative text, including bill language, if necessary, for these proposals.

The agreement further directs the Agency to include, in the above-mentioned required report, a detailed legislative structure to allow States to implement and manage Community Project Funding/Congressionally Directed Spending grants. The proposed legislative structure must include the following elements: allow States to apply or elect to manage a project or projects, including where recipients of Community Project Funding/Congressionally Directed Spending projects may opt-out of State management; align the requirements of the grants managed by the States with those that apply to SRF loans; and, an administrative funding set-aside for States to utilize when they elect to manage projects.

The Agency is directed to immediately begin consulting with the States and Tribes on this proposal, solicit their feedback, and the Agency is strongly encouraged to incorporate State and Tribal feedback into its report and legislative proposal.

This report focuses on opportunities to streamline environmental reviews and identifies approaches to award and administer CPF/CDS funding for community projects and activities. The EPA has consulted with states and Tribes for feedback and comments on the implementation and management of water CPF/CDS projects. Also, the report provides information on the accomplishments, updates, and opportunities for the CPF/CDS program. In addition, the agency presents process developments to ensure that applicants and recipients of the grants receive the required technical one-on-one assistance to comply with federal requirements.

If you have further questions or would like to meet to discuss this report, please contact Ed Walsh at (202) 564-4594 or Walsh.Ed@epa.gov.

Sincerely,

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Enclosure

Report to Congress

Administering Community Project Funding and Congressionally Directed Spending (CPF/CDS) projects for the construction of drinking water, wastewater, and stormwater infrastructure and for water quality protection.

The information contained within this report is provided by the EPA to respond to the Explanatory Statement accompanying the *Consolidated Appropriations Act, 2024* (Public Law 118-42), as detailed in the *Background: Reporting Requirements* section of this Report and pertains to the CPF/CDS projects for which the EPA has received appropriations for the construction of drinking water, wastewater, and stormwater infrastructure and for water quality protection. Additionally, the information contained within this report reflects input provided by state and Tribal stakeholders consistent with the Congressional directive. Finally, this report does not represent or propose policy positions of the EPA or the Administration.

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Executive Summary

This report is responsive to the Congressional direction in the Explanatory Statement accompanying the *Consolidated Appropriations Act, 2024* (P.L. 118-42), which instructs the EPA to submit a report “proposing efficient solutions for increasing the Agency’s effectiveness and timeliness in administering [water] Community Project Funding and Congressionally Directed Spending [(CPF/CDS)] projects.” The report describes the program’s accomplishments and provides updates and areas of opportunity for additional streamlining from the EPA.

During fiscal years 2022, 2023, and 2024, Congress provided over \$3.7 billion in funding for 2,220 projects consisting of construction of specific drinking water, wastewater, and stormwater infrastructure and water quality protection projects identified as CPF/CDS items in Appropriations Acts. As of October 15, 2024, the EPA has awarded \$822.3 million to 457 water CPF/CDS recipients for projects consisting of construction of drinking water, wastewater, and stormwater infrastructure and water quality protection.

Consistent with Congressional directive, this report identifies the agency's approach to streamline several aspects of awarding and administering water CPF/CDS funding, including completing the environmental review. In this regard, as with all federal financial assistance, recipients must apply to receive water CPF/CDS grant funding and are required to follow all applicable federal requirements, including, but not limited to: the *National Environmental Policy Act* (NEPA), the *Build America, Buy America (BABA) Act*, the *American Iron and Steel (AIS) Act*, the *Davis-Bacon Act*, as well as federal procurement standards in the *Brooks Act* (40 U.S.C. Section 1101 et. al.), as applicable, and the Code of Federal Regulations at 2 C.F.R. Parts 200 (the Uniform Grants Guidance (UGG)) and 1500 (EPA's Supplement to the UGG) and 40 C.F.R. Part 33 (EPA's Disadvantaged Business Participation Rule or DBE). Note, applicable federal requirements also include compliance with applicable laws and regulations related to civil rights and nondiscrimination such as Title IV of the *Civil Rights Act* (P.L. 88-352), the *Age Discrimination Act*, (P. L. 94-135), Section 504 of the *Rehabilitation Act* (P.L. 93-112), and the *Americans with Disabilities Act*. Water CPF/CDS project grant compliance with the various federal requirements provides several benefits, including investing in communities while maximizing the use of American iron and steel, manufactured goods, and construction materials. Additionally, by requiring the use of Made in America content, BABA helps stimulate private sector investments in domestic manufacturing, bolster critical supply chains, and support the creation of good paying jobs so that America's workers and firms can compete and lead globally. However, many CPF/CDS recipients are new to the federal grant process, which requires significant one-on-one technical assistance to submit completed applications that comport with all applicable requirements. Moreover, a number of projects have advanced to the pre-construction phase (e.g., design/engineering) or already have begun construction, both of which make complying with federal requirements challenging. The approaches to streamline varying aspects of implementation discussed in this report are for the purpose of expediting funding awards for the water CPF/CDS projects identified by Congress to address specific water infrastructure needs of the identified recipients' communities.

This report also provides a comprehensive response to the FY 2024 Congressional directive to consult with states and Tribes and solicit their feedback on a legislative structure to allow states to implement and manage water CPF/CDS projects. Specifically, this report describes the consultation process the EPA undertook as well as the feedback received. While a more detailed discussion is provided later on in the report (in the State Implementation Consultation and Input section) and explicit feedback is included in Appendices A and B, the input received generally suggests that states have very little interest in awarding and implementing CPF/CDS projects and interest expressed is conditional.

Further, and as directed by Congress, this report includes an implementation structure and legislative text that would allow states and recipients to opt in to state implementation of select water CPF/CDS projects and/or select water CPF/CDS project management activities. The structure and legislative text include providing administrative funding for state implementation of water CPF/CDS projects as well as alignment of requirements of the water CPF/CDS projects managed by states with requirements applicable to State Revolving Fund (SRF) loans.

Finally, the appendices of this report contain direct feedback the EPA received from states and Tribes on state implementation of water CPF/CDS projects, as well as detailed grant oversight responsibilities that would be included under the state implementation structure.

Background: Reporting Requirements

Statutory Report to Congress Requirement

This report satisfies the requirement for the EPA to provide a report to Congress that identifies efficient solutions for substantially increasing the EPA's effectiveness and timeliness in administering CPF/CDS projects for the construction of drinking water, wastewater, and stormwater infrastructure and for water quality protection.

Specifically, the Explanatory Statement accompanying the *Consolidated Appropriations Act, 2024* (P.L. 118-42), states:

“The Committees remain concerned that EPA does not have sufficient resources necessary to expeditiously implement this program and fully support recipients as they address applicable Federal grant requirements. Accordingly, the agreement provides \$13,300,000 in funding for salaries, expenses, and administration for Congressionally Directed Spending and Community Project Funding grants provided in fiscal year 2022 and fiscal year 2023 and this Act. While the Committees appreciate the technical assistance the Agency has provided in recent months, the Committees remain concerned that more work is needed to resolve the Agency's significant backlog of projects, as discussed in the fiscal year 2024 Senate appropriations hearing. Required by a provision in the bill, the Committees direct the Agency to provide a briefing within 45 days and a subsequent report within 90 days of enactment of this Act proposing efficient solutions for substantially increasing the Agency's effectiveness and timeliness in administering Community Project Funding and Congressionally Directed Spending projects. This briefing and report must include: ways to streamline environmental reviews, additional statutory authority that may be helpful to the Agency, and any additional options the Agency sees fit to recommend to the Committees, other than increased staffing at the Agency. The report must include detailed legislative text, including bill language, if necessary, for these proposals.

The agreement further directs the Agency to include in the above-mentioned required report, a detailed legislative structure to allow States to implement and manage

Community Project Funding/Congressionally Directed Spending grants. The proposed legislative structure must include the following elements: allow States to apply or elect to manage a project or projects, including where recipients of Community Project Funding/Congressionally Directed Spending projects may opt-out of State management; align the requirements of the grants managed by the States with those that apply to SRF loans; and, an administrative funding set-aside for States to utilize when they elect to manage projects.

The Agency is directed to immediately begin consulting with the States and Tribes on this proposal, solicit their feedback, and the Agency is strongly encouraged to incorporate State and Tribal feedback into its report and legislative proposal.”

While the Explanatory Statement accompanying the *Consolidated Appropriations Act, 2024* (P.L. 118-42), provides the requirement to report to Congress on the administration of water CPF/CDS projects, the EPA has received appropriations for these projects since FY 2022. Appropriations for these water CPF/CDS projects to date total \$3.7 billion for 2,220 projects as follows: in FY 2022, \$841 million for 483 projects; in FY 2023, \$1.472 billion for 715 projects; and in FY 2024, \$1.419 billion for 1,022 projects.

Program Description: EPA Implementation of Water CPF/CDS Projects Under the Community Grants Program

Description of the EPA Community Grants Program

The EPA follows Congressional direction to provide federal grant funding in specific amounts directly to entities identified by Congress for projects that address specific water infrastructure needs. After the passage of the *Consolidated Appropriations Act, 2022* in March 2022, the EPA established and began standing up the Community Grants program for the purpose of administering water CPF/CDS projects and has since worked in earnest to expedite the process of awarding funding to water CPF/CDS recipients. While funding for water CPF/CDS projects is taken off the top of the Clean Water and Drinking Water SRF appropriations, the Community Grants program is a stand-alone grant program that exists outside the SRF loan/grant programs and has its own unique requirements.

As a general requirement of obtaining federal financial assistance, including Community Grants, grant recipients must apply to receive grant funding and are required to follow all applicable federal requirements as directed by Congress. These requirements include: NEPA, BABA, AIS, the Davis-Bacon Act, as well as federal competitive procurement procedures identified in the Brooks Act (as applicable), 2 C.F.R. Parts 200 and 1500, and 40 C.F.R. Part 33.

- Grant recipients' roles and responsibilities include the following: development and submission of grant applications to receive and manage direct awards; development and adherence to internal controls, policies, and procedures; compliance with all

applicable requirements; implementation of projects according to the EPA-approved grant workplan and milestone schedule; progress and financial reporting and recordkeeping; and audit response, as necessary.

- The EPA's roles and responsibilities include the following: development of implementation guidance, agency procedures, and program terms and conditions; training, outreach, and public engagement; compliance oversight, support, and decision-making; application review and grant award issuance; invoice and payment review; and approval of post-award grant monitoring.

Program Status to Date

As of October 15, 2024, \$822.3 million has been awarded to fund 457 Community Grants projects. This represents 20 percent of the projects identified and 22 percent of the funding appropriated in FY 2022 – FY 2024:

- FY 2022: 253 projects totaling \$451 million awarded to date.
- FY 2023: 192 projects totaling \$359.8 million awarded to date.
- FY 2024: 12 projects totaling \$11.5 million awarded to date.

After the *Consolidated Appropriations Act, 2024* (P.L. 118-42), took effect on March 9, 2024, the EPA initiated outreach and engagement with 1,022 new FY 2024 CPF/CDS project recipients. On April 24, 2024, the EPA issued the FY 2024 Program Implementation Guidance, provided it to each of the FY 2024 water CPF/CDS recipients, and invited them to attend EPA's national Community Grants Program training series for recipients. The training series covered the administrative and programmatic requirements recipients must adhere to as well as the overall process for recipients to receive funding and access the grant application package. Nearly 1,000 participants attended the training series in June, and the EPA has provided similar Community Grants Program trainings to approximately 850 participants in 2022 and 2023.

Program Administration Challenges

The EPA sees the following as the three biggest challenges to awarding CPF/CDS funding.

- **Challenge # 1:** Many of the water CPF/CDS projects are quite advanced and are either in the pre-construction phase and are ready to proceed with construction, or have already initiated construction, or have completed construction, which makes it challenging to comply with federal statutory and regulatory requirements (e.g., BABA, AIS, NEPA, D-B, and/or procurement). As a result, for many projects, substantial time, revision, and/or an applicable waiver (if available) may be needed for recipients to adhere to federal procurement, environmental, and/or other applicable requirements for which compliance is necessary for the EPA to obligate funds.

- Challenge # 2: Projects are often not co-funded with the SRF program, so recipients must start at the beginning for federal requirements (e.g., NEPA, AIS, BABA, and/or D-B).
- Challenge # 3: Many water CPF/CDS project recipients are new to the federal grant process and need considerable education and technical assistance to help them navigate the grant application process. Some recipients face challenges in completing their initial grant applications to receive funding and some recipients have no experience with federal financial assistance, to include applying for grants and federal requirements. As a result, many recipients require significant one-on-one technical assistance to submit grant applications, which must be submitted/approved prior to funds being awarded.

State Implementation: Consultation and Input

In April and May of 2024, the EPA conducted seven listening sessions to consult with state and Tribal stakeholders and receive input on a potential structure for state implementation of water CPF/CDS projects. Feedback from states was obtained through a total of six listening sessions held with the Environmental Council of the States (ECOS), the Council of Infrastructure Financing Authorities (CIFA), the Association of Clean Water Administrators (ACWA), the Association of State Drinking Water Administrators (ASDWA), and the National Governors Association (NGA). The EPA received Tribal input during a seventh listening session at the 2024 National Tribal Water Council Spring Meeting. In addition to receiving input from these listening sessions, the EPA also received written input from states and Tribes. A summary of the oral and written input received from states and Tribes is included below and the Appendices of this report contain copies of the written comments submitted to the EPA and comments provided during the listening sessions.

Summary: Input Received from States and Tribes

The listening sessions and written input provided by stakeholders indicated that one of the main reasons for state opposition to implementation of water CPF/CDS projects is the nature of the funding and administration mechanism for these projects (i.e., with funds taken off the top of the SRFs administered outside of the SRFs under a separate stand-alone grant program). Consequently, this concern also is central to the factors identified for consideration of a potential structure for state implementation of CPF/CDS projects.

The consultation listening sessions focused on discussion topics (a) – (f) related to potential state implementation of water CPF/CDS projects:

- (a) Whether state SRF programs are interested in implementing all or some of the identified water CPF/CDS projects.

States indicated that they do not wish to take part in the administration of water CPF/CDS projects except for very limited involvement in administering select water CPF/CDS projects through the SRF capitalization grant program that are SRF co-funded and that are included on Intended Use Plans (IUPs) and Project Priority Lists (PPLs). The feedback indicates that up to 3 states (New Jersey, Massachusetts, and New York) would potentially be interested in administering the projects in this limited capacity and under specific conditions identified below under consultation Topic (b).

- The overarching theme and input expressed consistently by states relates to concerns with the potential implementation of water CPF/CDS projects. States expressed that the underlying water CPF/CDS funding undermines and circumvents the SRFs and that state implementation of the projects would further undercut their own SRF programs.
- State input also indicates that many of the water CPF/CDS recipients' projects have not been reviewed, selected, vetted, and/or prioritized via the SRFs, and do not reflect state infrastructure priorities. Additionally, projects have not been vetted for their ability to comply with the federal requirements they are subject to, including BABA, which significantly impacts the overall design and construction of water infrastructure projects.

Tribes expressed some interest in potential administration of water CPF/CDS projects by the Indian Health Service (IHS), within the U.S. Department of Health and Human Services (HHS), rather than by state agencies. However, some Tribes prefer to retain the ability to receive direct grants from the EPA to implement their water CPF/CDS projects. Feedback from Tribes includes the following:

- While some Tribes are interested in IHS implementation of their water CPF/CDS projects, other Tribes do not prefer IHS implementation due to administrative funding taken from the project amount, for use by IHS for Interagency Agreement administration, rather than for implementation of the project itself.
- Some Tribes are not interested in any state involvement and/or state decision-making on Tribal reservations.
- Some Tribes lack the capacity to undertake a direct grant from the EPA and need assistance with the grant application process and/or in building capacity to implement their water CPF/CDS projects through receiving direct grants.

(b) Factors to be taken into consideration when deciding which projects and/or parts of projects state SRF programs might implement, including identifying any select activities on which states might elect to focus.

States expressed very limited interest in potential state implementation of water CPF/CDS projects. And, when states expressed their limited interest, they indicated that their involvement would be limited and/or subject to several conditions. The factors

states provided for consideration are representative of varying state perspectives; a summary of the limitations and conditions as expressed by states to the EPA is below:

- Projects should be co-funded with SRF funding and included on IUPs.
- Availability of any funding associated with project implementation and administration should be via the SRF capitalization grant process, by providing water CPF/CDS funding to states through the SRF grant program, and allowance of the loan portion of project funding to be counted toward equivalency.
- Water CPF/CDS projects administered by states should be subject to SRF loan requirements rather than the requirements applicable to direct grants provided by the EPA.
- Projects should align with state infrastructure priorities, meet affordability criteria, and recipients should demonstrate readiness to proceed.
- State environmental review process (SERP) determinations should be accepted as sufficient for NEPA compliance; or the EPA should retain responsibility for compliance with NEPA and other environmental cross-cutting authorities such as the National Historic Preservation Act (NHPA).
- Any water CPF/CDS projects administered by states must have active SRF applications under state review.
- The EPA should retain review and/or approval responsibility for payment requests, cost share waivers, and technical corrections.

In addition to these conditions, state input indicates that, rather than electing to implement any water CPF/CDS projects in their entirety, input provided indicates that four states may be potentially interested in electing to work with the EPA on certain aspects of project implementation and/or oversight, which may include any of the following:

- Facilitating contact between the EPA and appropriate persons at recipient entities.
- Sharing state inspection reports and/or SERP documentation for projects that are co-funded with the SRFs and included on IUPs with the EPA.
- Payment request coordination to avoid water CPF/CDS funds from both paying for the same costs of any SRF co-funded projects.
- Review of site inspections, plans and specifications, bid and contract documents.

- (c) Estimated resource needs to adequately implement some or all of the water CPF/CDS projects within each state, to include any estimates in terms of percentage of administrative costs compared to total project funding or in terms of average administrative costs per project as well as any other considerations or limitations that should be recognized.

Many states indicated that they do not have the necessary capacity to implement water CPF/CDS projects through the EPA/federal grant process. States also noted their inability

to handle additional project oversight responsibilities even with an additional allocation of administrative funding.

- Some feedback indicates that while administrative funding of anywhere from three percent to 14 percent of water CPF/CDS project costs would be needed at minimum, some state leadership may not provide full time equivalents (FTE) that would be necessary for SRF programs to hire staff needed to implement water CPF/CDS projects. Without FTE authority, states lack the capacity to take on the workload of administering water CPF/CDS projects and/or provide the labor-intensive technical assistance needed for recipients who lack technical capacity to manage capital improvement grant projects.
- State input identifies difficulty in estimating administrative funding levels necessary for water CPF/CDS project administration. State input also reflects concerns that administrative funding would be necessary but not guaranteed to be made available for a period long enough to cover the work for these multi-year projects, and that the workload may fluctuate from year-to-year, increasing the difficulty in hiring, training, and retaining staff to administer the projects. States also are concerned that if adequate funding is not made available for water CPF/CDS projects, SRFs may have to use administrative funding intended for state priority projects to administer water CPF/CDS projects.

Additionally, while state input acknowledges that administrative funding is necessary to administer any water CPF/CDS projects, states also shared objections to providing SRF funding for the purpose of administering water CPF/CDS projects as that would further reduce the amount of funding available for use under the SRF capitalization grant program.

- (d) Aside from resources, any incentives, limitations, and/or requirements, that would be needed for state SRF programs to elect to implement water CPF/CDS projects.

When states conveyed their very limited interest in implementing water CPF/CDS projects, they indicated their involvement would be limited and/or subject to several conditions as described under consultation listening session topic (b) above, and that any state involvement in any administration of water CPF/CDS projects should be voluntary, and states should not be mandated or otherwise directed to administer all or any portion of any water CPF/CDS projects.

- (e) Considerations related to impacts of state implementation of water CPF/CDS projects on SRF programs that should be considered in establishing a state implementation structure for administering water CPF/CDS projects.

State input includes the following considerations:

- Communities need time to learn how to apply for federal funding and to work through the process and paperwork to comply with federal mandates, which presents a barrier to increasing the pace of awards.
 - Due to water CPF/CDS funding being derived from SRF appropriations, states are challenged with managing and mitigating impacts of funding reductions under the SRFs including modifying policies and procedures for SRFs, reducing eligibility for principal forgiveness, and working with borrowers to revise their construction plans to allow for incremental funding, which interrupts infrastructure project progress. The increased workload of state implementation of water CPF/CDS projects would further compound this issue and does not indicate an opportunity for noticeable increase in the pace of award of water CPF/CDS projects due to state implementation.
 - Utilizing SRF funds to provide water CPF/CDS project funding outside of the SRF program impairs the ability for the SRFs to sustainably address long-term water infrastructure needs and takes funding away from the state SRF process, which is intended to fund the highest priority water infrastructure projects within each state to ensure human health and water quality is adequately protected.
- (f) Other considerations that should be reflected in the establishment and authorization for state implementation of water CPF/CDS projects.

State feedback indicates that:

- Most states are focusing on timely, expeditious award of SRF funds for projects that have been vetted through the IUP process; and, increasing their workload with implementation of water CPF/CDS projects that have been selected without consideration for priority needs of infrastructure and/or IUP inclusion would inevitably slow this effort and exacerbate timely and expeditious award issues.
- States are concerned that if the EPA is currently facing issues with timely awarding water CPF/CDS projects, then if states attempt implementation and are not able to get recipients to pursue projects, then these issues would transfer to states, and states would be held responsible for getting projects awarded.

State and IHS Implementation Structure & Administrative Resources

As part of the *Consolidated Appropriations Act, 2024* (P.L. 118-42), Congress directed the EPA to provide a detailed legislative structure to allow states to implement and manage water CPF/CDS projects. Congress stated the structure must include the following elements: (1) allow states to apply or elect to manage a project or projects, including where recipients of CPF/CDS may opt-out of state management; (2) align the requirements of the grants managed by the states with those that apply to SRF loans; and, (3) an administrative funding set-aside for states to utilize when they elect to manage projects.

After receiving input from state and Tribal stakeholders, and careful review by the EPA, there does not seem to be any significant interest at the state level to implement CPF/CDS projects. However, to address Congress' direction, this report includes the following multi-pronged approach, administrative resources, and options. Note that the legislative text for the options is provided in the Legislative Text and Statutory Authority section of the report. The options described in the multi-pronged approach below would be made available when states and/or IHS elect to opt in to administer or support water CPF/CDS projects and when the project recipient approves. In cases where states and/or IHS does not elect to administer or support administration of any water CPF/CDS project, and/or in cases where the project recipient does not approve of state and/or IHS administration and/or support of administration, the EPA would administer the water CPF/CDS projects.

Multi-pronged Approach

- States may apply or elect to manage a water CPF/CDS project(s) by applying for a Community Grant. Because water CPF/CDS funds are taken off the top of the SRFs, issuing the funds under a stand-alone grant program outside the SRFs allows the agency's SRF allocations to remain available and be obligated according to the levels authorized in Appropriations Acts. Water CPF/CDS project recipients may opt-out of state management.
- When a state elects to manage a water CPF/CDS project or projects, the EPA will seek to align the requirements of the grants managed by the states with the requirements that apply to SRF loans.
- IHS may apply or elect to manage a Tribal project or projects including through Interagency Agreements (IAs). Tribal recipients of water CPF/CDS projects may opt-out of IHS management of projects.
- Administrative funding will be available when states elect to manage water CPF/CDS projects.

Administrative Resources

In response to Congressional direction, this report is inclusive of estimated administrative set aside; the EPA estimates that a dedicated administrative set aside of up to three percent of the total funding made available for water CPF/CDS projects is necessary to effectively and expediently award and manage water CPF/CDS projects. This new funding from the state and Tribal Assistance Grant (STAG) account will be used for salaries, expenses, and administration of water CPF/CDS grants and Interagency Agreements.

Traditionally, the EPA's water infrastructure programs rely on dedicated administrative set aside funding to award and administer projects. For example, administrative set asides of one percent to four percent of funding are utilized in the SRFs to award and administer SRF projects through capitalization grants. In addition, state input revealed that administrative funds ranging from three percent to 14 percent for water CPF/CDS implementation are critical to any potential state consideration of implementing water CPF/CDS projects. The EPA estimates that an administrative set-aside of up to three percent of the total funding made available for

identified water CPF/CDS projects would provide the level of resources needed to fund both staff and extramural costs associated with construction oversight, and programmatic, financial, and administrative specialists, which are essential for awarding and monitoring the grants and projects, including providing oversight and management. The administrative set aside would be included in the per project amount that would be available for administration of water CPF/CDS projects under grants implemented by the states and for IAs implemented by IHS.

Dedicated administrative funding that is set at an appropriate level from the STAG account, but not at the expense of the SRF funding, for administration of water CPF/CDS projects will ensure timely awards and proper management.

- The number of awards that need to be managed as well as associated resource needs significantly increases each fiscal year Congress chooses to fund water CPF/CDS projects.
- Each award/project has approximately a five to seven year life cycle; projects will need to be managed in multiple phases of the grant process (pre-award, award, and post-award monitoring).
- Extramural funding allows for oversight to be streamlined with recipient needs, including related to payment requests, procurement, onsite evaluations, and NEPA requirements addressed through contracts.

Opt-In for States, IHS, and Recipients

Implementation of water CPF/CDS projects by states and/or IHS is voluntary and must be agreed upon by the state and non-Tribal Congressionally identified recipients, or by IHS and Tribal Congressionally identified recipients.

- States may elect to implement specific projects under Implementation Option A or B described below or choose not to opt-in to implementation of any water CPF/CDS projects. If a state elects to implement projects under Implementation Option A or B, the Recipients must agree with state implementation or choose to apply for a direct grant award from the EPA.
- IHS may elect to implement specific Tribal projects under Implementation Option C described below or choose not to opt-in to implementation of any Tribal water CPF/CDS projects. Tribal recipients identified in Appropriations Acts may agree with the IHS implementation or choose to apply for a direct grant award from the EPA. IAs are structurally inclusive of administrative funds and would not require additional administrative funding.

The tables below summarize the roles and functions of states, Tribes, and IHS for each option discussed above. The full list of roles and functions associated with each option can be found in Appendix C.

Implementation Option A: Broad State Implementation (States and Non-Tribal Recipients)

State applies for and receives a single EPA grant award; recipient(s) agree to implement selected projects under state's award, rather than receive direct grant(s) from the EPA. State

grant award includes water CPF/CDS project funding for all applicable projects as well as administrative funding in the amount of up to three percent of the total funding for water CPF/CDS projects to be implemented under the grant award.

Summary: Roles and Functions	
Implementation Option A: Broad State Implementation (States and Non-Tribal Recipients)	
States	<ul style="list-style-type: none"> • Submit EPA grant applications for state-selected projects and associated funding amounts identified in Appropriations Acts as well as funding for administrative resources; receives grant awards from EPA under the Community Grants Program. • Award subgrants to eligible subrecipients for identified projects. • States may either defer to the EPA’s cost share waiver criteria and decision-making process or waive the statutory cost share requirement based on criteria used by the state in determining additional subsidization. <ul style="list-style-type: none"> ○ CWSRF: applicable state affordability criteria ○ DWSRF: disadvantaged community definition • Ensure SERP completion if no EPA NEPA determination has been issued.
(Non-Tribal) Congressionally Identified Recipients	<ul style="list-style-type: none"> • Receive grants directly from states, implement projects identified in Appropriations Acts • Adhere to applicable¹ requirements such as: <ul style="list-style-type: none"> ○ BABA, AIS, the Davis Bacon Act, SERP, state and/or local procurement, including those related to state and/or local DBE, etc.
EPA	<ul style="list-style-type: none"> • Award grants under the Community Grants Program • Ensure grant awards adhere to applicable requirements <ul style="list-style-type: none"> ○ Grants awarded to states for state-selected projects and associated administrative funding (with agreement by Congressionally identified recipients) subject to federal requirements except where compliance would be based on state and/or local compliance, pending any changes to those requirements.

Implementation Option B: Partial State Implementation (States and Non-Tribal Recipients)

State applies for and receives a single EPA grant award to conduct certain management and oversight activities, including those described in the table below, for select projects identified by the state, with concurrence from the recipient(s), while the EPA manages direct grants to recipients. Management and oversight activities to be selected by states with agreement by recipients. The management and oversight grants are funded with administrative funding in the amount of up to three percent of the total funding for water CPF/CDS projects for which management and oversight activities will be performed under the grant award.

¹ State and/or local procurement compliance would be applicable to water CPF/CDS projects administered by states, pending changes to requirements applicable to the projects.

Summary: Roles and Functions Implementation Option B: State Implementation – Oversight Support (States and Non-Tribal Recipients)	
States	<ul style="list-style-type: none"> ● Submit EPA grant applications for state-selected management and oversight activities. ● Select management and oversight activities for state implementation, including: <ul style="list-style-type: none"> ○ Project inspections. ○ Review of bid and contract documents, plans, and specifications. ○ General facilitation between the EPA and the recipient.
(Non-Tribal) Congressionally Identified Recipients	<ul style="list-style-type: none"> ● Work with the EPA to receive any necessary Technical Corrections. ● Develop and submit grant applications to the EPA to receive and manage direct awards. ● Develop and maintain internal controls, policies, and procedures necessary for federal grant recipients. ● Implement project according to EPA-approved workplan and milestone schedule, reporting and recordkeeping, and respond to audits as necessary. ● Adhere to applicable requirements, including: <ul style="list-style-type: none"> ○ BABA, AIS, the Davis Bacon Act, NEPA, federal procurement standards (including DBE).
EPA	<ul style="list-style-type: none"> ● Award grants under the Community Grants Program. ● Ensure grant awards adhere to applicable requirements, implement Technical Corrections and cost share waivers. <ul style="list-style-type: none"> ○ Grants awarded to Congressionally identified recipients for projects identified in Appropriations Acts subject to all applicable federal requirements including BABA, AIS, the Davis Bacon Act, NEPA, federal procurement standards (including DBE). ○ Grants awarded to states subject to all applicable federal requirements, however given the nature of the grant scope (project oversight for select activities), general grant requirements are implicated whereas requirements such as BABA, AIS, NEPA, etc., are not implicated.

Implementation Option C: IHS and Tribal Recipients

IHS applies for and receives water CPF/CDS funding including through an Interagency Agreement (IA) with the EPA to conduct water CPF/CDS funding to implement select Tribal projects identified by IHS, with agreement by Tribal recipients.

Summary: Roles and Functions Implementation Option C: IHS and Tribal Recipients	
IHS	<ul style="list-style-type: none"> • Submit EPA IA applications for IHS selected projects and associated funding amounts identified in Appropriations Acts. • Receive and implement IA awards from EPA for select Tribal water CPF/CDS projects or receive funding for select Tribal water CPF/CDS projects through fund transfer from EPA. Implement IA awards in accordance with applicable requirements detailed in the <i>Indian Health Manual</i>.
(Tribal) Congressionally Identified Recipients	<ul style="list-style-type: none"> • Receive project implementation through IHS directly. • Adhere to applicable requirements as described in the <i>Indian Health Manual</i> including: <ul style="list-style-type: none"> ○ BABA, AIS, the Davis Bacon Act, NEPA, federal procurement standards (including those relating to Tribal DBE requirements).
EPA	<ul style="list-style-type: none"> • Award funds-out IA to IHS for select Tribal water CPF/CDS projects or provide funding to IHS for select Tribal water CPF/CDS projects to IHS through fund transfer. • Negotiate IHS IA awards with IHS to ensure adherence to applicable IA terms and conditions as described in the <i>Indian Health Manual</i>.

Legislative Text & Statutory Authority

As directed by Congress, potential legislative text is included below to address two areas important for enabling potential state and IHS implementation of water CPF/CDS projects (as described in the state and IHS Implementation Structure & Administrative Resources section of this report): 1) administrative resources and 2) state and IHS Implementation of water CPF/CDS projects. The below legislative text is included in direct response to the instructions in the Explanatory Statement accompanying the *Consolidated Appropriations Act, 2024* (P.L. 118-42), in order to foster effective management and oversight of water/CDS projects and potentially increase the timeliness of award issuance. However, as previously noted, there does not seem to be significant interest at the state level for this authority.

Administrative Resources –Potential Legislative Language

“The Committee provides new funding from the STAG account herein and hereafter in the amount of 3 percent of the amount of each project appropriated for Community

Project Funding Items/Congressionally Directed Spending Items, for salaries, expenses, and administration of Community Project Funding/Congressionally Directed Spending Items provided under this heading, or in this heading from previous appropriations acts.”

State/IHS Implementation – Potential Legislative Language

“The Administrator may provide funding by grant or cooperative agreement to States to administer or to support the administration of any Community Project Funding/Congressionally Directed Spending projects when the State and the project recipient agree; this funding may be provided in the amount of up to 3 percent of the amount appropriated for each project to be administered or supported by States.”

AND

“When a State administers the grant or cooperative agreement for Community Project Funding/Congressionally Directed Spending projects, the projects will be subject to the same requirements that apply to federally funded State SRF project grants. In cases where a State does not administer or support administration of any Community Project Funding/Congressionally Directed Spending project and/or in cases where the project recipient does not approve of State administration and/or support of administration, EPA will administer the Community Project Funding/Congressionally Directed Spending grant.”

AND

“The Administrator may provide funding, to include by Interagency Agreement, to the U.S. Department of Health and Human Services (HHS) to administer or to support administration of any Community Project Funding/Congressionally Directed Spending projects for Tribal recipients when HHS and the Tribal project recipient agree; this funding may be provided in the amount of up to 3 percent of the amount of each project to be administered or supported by HHS. In cases where HHS declines to administer or to support administration of the Tribal Community Project Funding/Congressionally Directed Spending project, and/or in cases where the Tribal project recipient does not approve of HHS administration or support of administration, EPA will administer the Community Project Funding/Congressionally Directed Spending grant.”

The Explanatory Statement accompanying the FY 2024 Appropriations Act states that the “Committees remain concerned that more work is needed to resolve the Agency's significant backlog of projects” and directs the agency to identify efficient solutions for substantially increasing the agency's effectiveness and timeliness in administering water CPF/CDS projects, including any additional statutory authority that may be helpful to the EPA. The agency previously offered, and the FY 2024 Appropriations Act includes, the below legislative text to streamline federal procurement requirements related to full and open competition; methods of

procurement for services (including architectural/engineering and construction), supplies, and equipment; and DBE, and thereby addresses an ongoing issue for water CPF/CDS projects, which is the advanced state of development for many projects (as discussed under Program Administration Challenge #1, listed in the Program Description section of this report). The language addresses this issue for recipients with projects identified in FY 2024 or prior Appropriations Acts who entered into contracts prior to March 9, 2024, and that complied with state and/or local laws and policies relating to competition. However, water CPF/CDS recipients who entered into contracts on or after March 9, 2024 in compliance with state and/or local laws and policies governing competition, including any water CPF/CDS projects that may be identified in subsequent Appropriations Acts, are unable to benefit from this flexibility.

Procurement – Legislative Text

“Provided further, That the funds made available under this heading for Community Project Funding/Congressionally Directed Spending grants in this or prior appropriations Acts are not subject to compliance with Federal procurement requirements for competition and methods of procurement applicable to Federal financial assistance, if a Community Project Funding/Congressionally Directed Spending recipient has procured services or products through contracts entered into prior to the date of enactment of this legislation that complied with state and/or local laws governing competition; ”

Many projects have moved forward with bidding for services, supplies, and/or equipment prior to being aware of or understanding the federal competitive procurement requirements (e.g., full and open competition requirements, price reasonableness being an evaluation criterion for construction services, and qualifications-based procurement requirements for certain planning and design services for Community Grants projects with workplans that are inclusive of certain CWSRF activities), including some recipients relying on state and/or local procurement standards, which are not always in accordance with federal requirements, and some recipients not conducting their procurements in compliance with any standards whatsoever. The above language addresses this issue for recipients with projects identified in FY 2024 and prior Appropriations Acts, as long as the recipient follows all applicable state and/or local laws relating to procurement. For instance, the above language would allow projects with pre-existing contracts (e.g., for planning and design activities), to move forward without having to re-bid contracts so long as applicable state and/or local standards were met relating to competition of procurement contracts (including DBE or equivalent requirements if the state and/or locality has any).

Agency Streamlining

Providing project-specific support is a critical component of the process of awarding funding for projects that meet applicable federal requirements including the environmental review (NEPA and other environmental cross-cutters), domestic preference (BABA and AIS), federal

procurement requirements, and the Davis Bacon Act. Further, in the post-award phase, the EPA is responsible for reviewing and approving payments to recipients and conducting project oversight.

Each of the 2,220 water CPF/CDS projects authorized to date requires one-on-one coordination with recipients to: provide outreach, answer project-specific questions, evaluate workplans, review applications, process cost share waivers and technical corrections, facilitate NEPA evaluation, ensure AIS/BABA compliance, and implement government-wide and EPA specific requirements for grants regulation compliance and funding to award grants. The EPA received approximately \$13.3 million dollars in both the FY 2023 and FY 2024 Appropriations Acts for administrative costs associated with implementation of the Community Grants Program. Approximately half of the FY 2023 funding (or \$6.38 million) was utilized to increase staffing within the agency, both at the headquarters and regional levels to manage and administer the program and projects. This funding provided for approximately 37 FTE through the end of FY 2024. In total, the agency's ceiling for water CPF/CDS projects is approximately 73 FTE. The EPA has utilized the remaining FY 2023 funding (\$6.919 million) for extramural contract and grant support for the program. Contractual support is used to streamline implementation of projects during both the pre and post award phases of grant issuance. The contractor assists the EPA with the environmental review, procurement document review, review of payment requests, construction/project site visits, and ongoing recipient and EPA staff training as EPA continues to build capacity and strengthen the program. Additionally, these funds have been used to provide Technical Assistance (TA) to support recipients, many of whom are unfamiliar with receiving federal funding, with the Grants.gov and SAM.gov registration and application submission processes, both of which are required for recipients to receive funding. The EPA anticipates utilizing the FY 2024 funding for similar purposes.

Aside from utilizing contract and TA provider support to assist with the workload, grant application process, and reviewing projects for compliance with the applicable requirements, the EPA also has initiated several streamlining efforts in the Community Grants program to alleviate some of the hurdles associated with awarding water CPF/CDS grants. To satisfy the reporting requirements outlined by Congress in the FY 2024 Appropriations Act, the EPA has evaluated the environmental review process and has prepared the following streamlining analysis.

Environmental Review - Background

The Community Grants program is subject to many federal requirements, including NEPA. NEPA requires, in relevant part, federal agencies to assess the environmental effects of their proposed actions, including awarding grants, prior to making decisions (i.e., issuing federal grant awards). The environmental review process consists of making a NEPA determination that is dependent on project activities and location, evaluating a proposed project for compliance with an extensive list of statutory requirements and executive orders (EOs), preparing documentation, and in some cases, where appropriate, undergoing public comment periods.

Under the environmental review, the process of evaluating projects for compliance with other federal environmental authorities and EOs is known as the cross-cutter review. The federal cross-cutting authorities and EOs applicable to this program include, but are not limited to: NEPA, NHPA, Endangered Species Act (ESA), Coastal Zone Management Act (CZMA), and Floodplain Management EO. During the cross-cutter review, project proponents may need to consult, as appropriate, with federal agencies, state and local governments, Tribal nations, obtain permits, and/or prepare tertiary assessments. As an example, compliance with the ESA may require the preparation of a Biological Assessment. Furthermore, some cross-cutter reviews are mandatory with response timeframes built into the consultation processes. For example, NHPA implementing agencies have a minimum review period of 30-days and, depending on the project activities and location, multiple review periods can be required, creating a potentially complex and lengthy path to compliance with this environmental cross-cutter.

Several opportunities have been identified for streamlining the environmental review process, some of which the EPA has already begun to undertake for water CPF/CDS projects. These opportunities include: the utilization of administrative funding to support program objectives through use of a contractor as discussed above, providing tools and technical assistance to the EPA grant Project Officers and water CPF/CDS recipients, and leveraging processes built into NEPA such as adopting other federal agency NEPA documents and Categorical Exclusions (CEs).

Utilization of Administrative Funding to Support the Environmental Review

Contractor support is available to promote program objectives by assisting the EPA regional staff with processing grants applications, including during the NEPA environmental review process. While the EPA maintains responsibility for complying with NEPA requirements, contractors are available to prepare draft correspondence, checklists, cross-cutting authority review, and provide additional support during the environmental review process as needed. The contract utilizes funding provided in the FY 2023 Appropriations Act and EPA intends to include additional funding from the FY 2024 Appropriations Act to continue contract support in the long-term. To provide adequate, efficient support, the contractor has a team of dedicated and experienced environmental professionals including sub-contractors. While the deadlines for deliverables related to the environmental review process vary by the specifics of the project, the contractor has provided most of the environmental review assistance requested by the EPA regional staff within approximately three weeks. As of June 2024, the contractor support has assisted with portions of the NEPA process for approximately 104 projects. In addition to assistance drafting environmental review documents, the contractor provides guidance to the EPA staff through the development of fact sheets and training. This contract is critical to supporting the EPA in carrying out its compliance responsibilities under the environmental review and provides workload relief for the EPA as it works to address Program Administration Challenge #2 (as listed in the Program Description section of this report).

Environmental Review - Technical Assistance, Tools, and Training

Environmental review resource tools have been developed by the EPA and the contractor to assist in the completion of the NEPA process. These have been provided to the EPA's regional offices who administer the grants to CPF/CDS recipients and issue the NEPA determinations. These resources include numerous NEPA templates to streamline components of the environmental review and ensure consistency across the agency, as well as development of a comprehensive NEPA Handbook that will be available for internal and external use.

NEPA templates have been provided for CEs, Environmental Assessments (EAs), consultation letters, and the cross-cutter evaluation. In addition, a supplemental instructional sheet for the cross-cutter review was developed as a guide for navigating the cross-cutter review process to reduce complexities around specific statutory requirements and increase efficiency in the review process. Letter templates have been provided for the consultation efforts needed for the NHPA and the ESA to save time in drafting repetitive documents and create consistency throughout the program. Furthermore, an EA Template was developed for the Community Grants Program. An EA is an analysis prepared by the EPA to determine if the proposed action will have significant impacts. An EA may result in a Finding of No Significant Impact (FONSI) or if there are significant impacts, may lead to preparation of an Environmental Impact Statement (EIS). An EA evaluates potential impacts from the project and reasonable alternatives, evaluates the need for the project, considers cumulative environmental impacts, and the need for any mitigation measures to reduce any impacts of the action. Utilization of this template aids in ensuring that all components of an EA are included in the analysis and provides a framework for developing a complex environmental review in a more consistent, efficient manner.

The NEPA handbook will provide an overview of the EPA's environmental review process and levels of analysis associated with that review. The handbook is being designed specifically for the water CPF/CDS projects and will explain how NEPA fits into the grant process. The EPA anticipates finalizing the NEPA handbook during the first quarter of FY 2025 and it will be an additional tool to support the NEPA process.

The grants administration process for water CPF/CDS projects is complex and requires recipients to comply with a significant number of federal requirements. To aid in the expeditious processing of grant applications, training has been provided on over 10 occasions since standing up the Community Grants Program. These trainings have covered a variety of topics ranging from administrative aspects of grant management to applicable regulations and requirements. The administrative processes for the Community Grants program include processes and requirements for receiving and managing a federal grant, submitting an application, grant policies and procedures, recipient responsibilities for post award compliance, etc. The programmatic requirements trainings provide water CPF/CDS project recipients with information on requirements such as NEPA, cost share, technical corrections, and procurement. These training topics have been presented to regional staff and externally to recipients several times throughout FYs 2022, 2023, and 2024, and the recorded webinars and training materials are publicly available on the EPA's public facing Community Grants Program webpage. Additionally, the EPA holds internal NEPA technical assistance meetings on a bimonthly basis for the EPA staff responsible for compliance as a resource and collaborative space to solve

NEPA compliance questions. This platform is especially helpful with navigating the complexities of the cross-cutting federal requirements as they arise.

Water CPF/CDS projects are subject to the consultation requirements under Section 7 of the ESA and Section 106 of the NHPA as part of the cross-cutter review. This evaluation is highly dependent on the project location and activities, which can greatly impact the complexity, level of effort, and duration of time needed to achieve compliance with the applicable requirements. Provisions within the ESA and NHPA allow for delegation of authority to non-federal entities to assist with consultation efforts that affords an opportunity for a more collaborative, efficient effort for complying with these requirements and potentially enables the consultation process to begin earlier on in the environmental review process. While the EPA maintains responsibility for complying with the ESA and NHPA, working in conjunction with recipients can streamline efforts and reduce environmental review processing time. Delegation letter templates have been prepared for both ESA and NHPA and are used by EPA's regional offices during the environmental review process.

Leveraging NEPA Processes

Programmatic Environmental Assessment. The Council on Environmental Quality's (CEQ) implementing regulations for NEPA encourage federal agencies to consider evaluating impacts of common actions and program elements in a programmatic manner to gain efficiencies. They also encourage the development of program-level NEPA documents when projects are like each other and have similar impacts. The agencies can then "tier" to the program-level analysis, thus avoiding duplication and delay. This is achieved through development of a Programmatic Environmental Assessment (PEA) that presents a broad and high-level review of information on existing conditions, and evaluates potential direct, indirect, and cumulative effects of construction of water, wastewater, and stormwater infrastructure and water quality protection projects that are determined to need an EA. If a proposed project's activities fall within the scope of the PEA, then it can be utilized for the project and time can be saved through avoiding duplicative analysis and public notices. This strategy has been utilized by other EPA programs and, with the availability of the administrative funding provided in FY 2023, the EPA has initiated development of a PEA for the Community Grants Program that is expected to streamline the environmental review process for projects that fall under the EA level of review. The EPA is working to finalize the PEA as quickly as possible.

Other Federal Agency NEPA Determinations. For CPF/CDS projects that are co-funded by other federal programs (e.g., the U.S. Department of Agriculture (USDA) and the U.S. Department of Housing and Urban Development (HUD)), the EPA may adopt a NEPA document that has resulted from the other federal agency's NEPA review, if it meets the standards for an adequate statement, assessment, or determination of a project with the same activities. The EPA has utilized this approach for specific projects in the Community Grants Program when a federal environmental review already has been completed by another federal agency. Of the projects for which the environmental review was supported by the contractor, six have utilized information from and/or adopted other federal agency's NEPA review to date.

SERP. For projects that are co-funded with SRF funding and/or have undergone SERP, the EPA may incorporate, by reference, all relevant portions of the SERP into the EPA's NEPA determination. The SERP information can support development of the environmental review creating opportunities to reduce the level of effort; however, the regulations require that EPA maintains responsibility for the NEPA determination including any consultation and evaluations required. EPA incorporates relevant SERPs for water CPF/CDS projects whenever possible and of the projects for which the environmental review has been assisted by the contractor, approximately 23 have incorporated information from SERPs. There are very few projects that incorporated SERPs and/or are SRF co-funded that have received NEPA determinations thus far. On average, it took CE level projects, incorporating SERPs, approximately 150 days to issue a NEPA determination versus approximately 180 days for CE level projects without SERPs. Additionally, it took EA level projects with SERPs roughly 230 days to issue a NEPA determination versus approximately 250 days without SERPs. It is important to note, however, that time savings may not be seen across the board because the content and transferability of SERPs varies as state environmental review requirements vary and the time it takes to reach a NEPA determination also is heavily dependent on the specifics of each project's planned activities and location.

Comprehensive CE Application. Under NEPA, a proposed federal action, including grant projects funded by federal dollars, must be evaluated to determine the level of environmental review that is dependent on the project activities and location. In recognizing that there are varying degrees of environmental impacts, from minor to significant and beneficial to adverse, the NEPA regulations provide for varying levels of review depending on the potential significance of the environmental effects. Three levels of environmental review exist: CEs, EAs, and EISs. The complexity of the environmental analysis increases with each level as does the length of time needed to achieve a sufficient environmental review. Federal agencies can establish CEs, within an agency's implementing regulations, which are categories of actions that an agency has determined normally do not individually or cumulatively have a significant effect on the human environment. Utilizing CEs allows an agency to perform an efficient environmental review of an agency action, does not typically require a public notice, and reduces the length of time needed to complete the environmental review. However, like all levels of environmental review, CEs require completion of a cross-cutter review. The EPA has established CEs which can be found within 40 C.F.R. Part 6 Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions. The CEs outlined within these regulations are utilized to the extent possible and cover a range of activities typically associated with water infrastructure projects such as minor rehabilitation, upgrading, and/or minor expansion of existing infrastructure systems. The EPA utilizes the CEs outlined within 40 C.F.R. Part 6 to the fullest extent practicable. If no CE applies to the proposed federal action, then the EPA must prepare an EA or an EIS dependent on the project activities, which both require a more rigorous analysis than a CE level of review and have public comment periods. During all levels of review, the EPA must determine if the project has significant impacts and if so, identify alternatives the agency considered and mitigation measures for projects that may reduce impacts below significance levels, if such impacts are anticipated.

Within the EPA's list of CEs are actions that are eligible for categorical exclusion that do not require the EPA to determine applicability of the CE. These activities include planning or design and architectural and engineering studies. If a project has activities that include both planning/design and architectural and engineering studies as well as ground-breaking components of construction, a phased approach may be used to award a portion of the appropriated funding amount for the planning and design related activities of the project followed by a second grant award for the ground-breaking construction components once the NEPA review has been completed for the ground-breaking construction activities of the project. Utilizing this approach, when appropriate, offers some streamlining as recipients may receive funding for planning and design under an initial grant award while the environmental review is completed for the remainder of the project activities.

Finally, Section 109 of NEPA, enacted as part of the *Fiscal Responsibility Act of 2023*, allows a federal agency to adopt and use another agency's CEs. This provides an opportunity for an agency to streamline environmental reviews for actions that other federal agencies have determined do not normally significantly affect the quality of the human environment. As of July 2024, the EPA has adopted five CEs from other federal agencies for use within the EPA grant programs. EPA's latest adoption is a U.S. Fish and Wildlife Service (FWS) CE for restoration activities of wetland, riparian, instream, and native habitats, with several CPF/CDS projects pending its use. Continued use of the CE adoption process will enable the EPA to expand the availability of CEs that can be utilized for Community Grants projects that will streamline environmental reviews for projects with activities that fall within these categories.

Internal Process Improvements and Administration Considerations

The EPA also has incorporated additional efforts to streamline other aspects of the Community Grants program relating to compliance and implementation and attempted to address the Program Administration Challenges listed in the Program Description section of this report. The streamlining efforts below are being implemented within the EPA's existing authorities and do not require additional legislative text.

Amended BABA Waiver. Under the EPA's [Amended Public Interest Waiver of Section 70914\(a\) of P.L. 117-58, Build America, Buy America Act, 2021 for State Revolving Fund and Water Infrastructure Projects that Initiated Design Planning Prior to May 14, 2022](#), water CPF/CDS projects are eligible for coverage if they are funded with appropriations from federal fiscal years 2022 or 2023 and have documentation of completing one of eight design planning milestones prior to the effective date of BABA, May 14, 2022.

Project-specific Contractor and Environmental Finance Center (EFC) Support. In the FY 2023 and FY 2024 Appropriations Acts, Congress provided administrative funding to the EPA which has enabled the agency to provide:

- TA directly to recipients to assist with developing grant applications and navigating the Grants.gov process; absent complete grant applications, EPA is unable to award funds; and

- Contract support for regional staff to assist with pre-award and post-award responsibilities and support EPA's ability to assist recipients with expediting awards including: NEPA, procurement, technical assistance and training, site visits/inspections, and cost share waiver and payment request review. Within 6 months of awarding the contract, nearly \$500K in contract funds were used to support the program, yet the contract was oversubscribed in work leaving the program in need of more funding. With the increasing numbers of projects, \$4.92 million is anticipated to provide contractor support for up to 2 years.

Cost Share Waiver Reviews – Regional Authorization. One of the statutory requirements for water CPF/CDS recipients is to provide non-federal funds as cost share for each project. The EPA supports waiving the cost share requirement for projects that primarily serve disadvantaged communities and uses discretion provided in the Appropriations Acts to consider waiving the cost share requirement when requested and appropriate. The EPA established a process for determining when waiving the cost sharing requirement is appropriate and has authorized regional implementation of the process to streamline review and approval procedures and allow for timely issuance of cost share waiver decisions early on during the application process.

Elimination of internal procedural logjams. The EPA has developed a variety of templates for internal use to standardize and streamline various aspects of issuing and managing water CPF/CDS awards including processing the application for award agreement issuance, reviewing payment requests, reviewing procurement documentation, and issuing cost share waiver decisions and environmental review determinations.

Recipient Training and Resources. The EPA has developed and provided several trainings to water CPF/CDS recipients including in-depth courses on understanding the steps and requirements for obtaining and managing a water CPF/CDS grant, workplan and budget development, and to foster a greater understanding of the many applicable requirements including procurement, the environmental review, BABA, AIS, and the Davis Bacon Act. Additionally, EPA has developed and provided outreach on various resource materials to assist with application development as well as understanding requirements such as those related to procurement. For example, the recipients can utilize the "Reminders for Preparing Solicitation Documents" guide for Water CPF/CDS projects as they develop Requests for Proposals/Qualifications for their projects. Additionally, the EPA also is available to provide information to Congress in support of potential recipient readiness, as a means of ensuring potential recipients are prepared to submit complete application packages, which may alleviate challenges in awarding funding.

Monthly Technical Corrections. For projects that need modification to the identified recipient and/or purpose as identified in the Appropriations Acts, EPA works directly with Congress to consult on Technical Correction requests monthly. As of June 2024, Technical Corrections have been approved for 88 projects identified in FY 2022 – FY 2024 appropriations, enabling the recipients to start the grant application process.

Intergovernmental Review (IR). Intergovernmental Review is a regulatory requirement for EPA programs and activities and requires grant recipients to submit grant applications for local government review prior to award. The EPA determined that water CPF/CDS projects (outside of California), that have completed a SERP, EA, or EIS under NEPA, and/or are included in an IUP, have satisfied the functional equivalent of IR requirements and no further action is necessary. Additionally, if an applicant/recipient has provided the water CPF/CDS documents and/or consulted with state and local metropolitan planning agencies on the specifics of the proposed grant activities before submitting the grant application to the EPA, the applicant/recipient has satisfied the functional equivalent of IR requirements, and no further action is necessary. Water CPF/CDS projects in California must comply with CA state law as it relates to IR.

Appendix A – Input Received During Listening Sessions

Please see Appendix A PDF for more information.

Topic 1: State interest in implementing all or some of the Community Grants projects identified in your state.	
Input Received	Listening Session
I know it's a yes or no question, but it's more of maybe it would be the answer for yes, with funding no without funding kind of thing.	ACWA ASDWA - 04/30/2024
I wanted to second the "with conditions"	ACWA ASDWA - 04/30/2024
No. NOTE: 3 IDENTICAL RESPONSES RECEIVED	ACWA ASDWA - 05/03/2024
I represent an interstate river basin commission. Q1 - Yes.	ACWA ASDWA - 05/03/2024
Hi! Good afternoon. I would say that my State is not interested in managing or implementing all or some of the community grant projects. and I rather than typing it in. I just wanted to. I just wanted to. Kind of explain our rationale, I mean. Oftentimes these earmarks are given to projects that really are not ready to go. And that's 1 of the reasons why these projects aren't ranking high on our own State. You know, project priority lists and our intended use plans. And so I don't know it. Working on some of these projects would just be as painful whether it's, you know, whether they're getting money from the Feds or they're getting money from the States. They're just. These are projects that are often just not ready to go. The other issue is just that with a bipartisan infrastructure. Law. That's brought additional money to the State. I mean, we already are, you know, completely full up in terms of our, you know, staffing resources and implementing all of the projects that we're funding on the state level. So I just wanted to give, you know, a little bit more information that would have been painful to type into the chat.	ACWA ASDWA - 05/03/2024
No. NOTE: 10 IDENTICAL RESPONSES RECEIVED	ECOS - 4/30/2024
Yes. NOTE: 2 IDENTICAL RESPONSES RECEIVED	ECOS - 4/30/2024
maybe. NOTE: 1 IDENTICAL RESPONSES RECEIVED	ECOS - 4/30/2024
Thank you. I think from our perspective, there's some apprehension. I think that if I think that the criteria that have been aligned outlined in terms of having it be at the States election, and sort of aligning the requirements of Srf programs, and they're being funding provided to go with the work that's being done. I think that those criteria all make sense, and I appreciate the thought given to having those be sort of a baseline expectation. I think a source of our apprehension is in part that you know our program reports that there's been a great deal of pressure to improve timing of distribution of Srf funds generally, and a concern that the additional workload would complicate our ability to meet those expectations. that even with funding there's going to be some delay with hiring. And so I think our apprehension is driven, at least in part, by what expectations come with taking on a project. But I do appreciate the thought given to making that option available to States. Thank you.	ECOS - 4/30/2024
Thank you. Yeah. It seems like, yes or no is a little too limiting. So I would just provide the feedback that we actually, when we 1st heard of this earlier this spring, we were in the no camp. Absolutely we're now more in a possibly scenario. As we've talked more about it internally, and with our colleagues at EPA. But there are a lot of factors that go into it. So I think there's a Yes, no, or maybe, and we're in the maybe camp.	ECOS - 4/30/2024
Echoing those comments as well. Maybe - State 7 has some state-specific requirements on SRF loans/principal forgiveness for communities that could present significant challenges if the funds come through the SRF.	ECOS - 4/30/2024
State 8 is not interested because of workload capacity constraints.	ECOS - 4/30/2024
Person 5's concerns sound like ours in State 9 as well. The concern about capacity while addressing EPA's metrics for distributing existing SRF monies is a significant hurdle for us, even with administrative funding set-aside	ECOS - 4/30/2024

Topic 1: State interest in implementing all or some of the Community Grants projects identified in your state.	
Input Received	Listening Session
huh? Alright. Good afternoon, everyone, or good morning on the West Coast. For us. I think we are in the yes category. If so. You know that caveat we definitely would want the funding if we don't have the additional funding. We can't really do this but I do think at least our experience. It would be very appropriate for us to take on this role. We're already spending a lot of time answering EPA's questions and trying to get EPA and contact with the right people in order to get this funding out. So I definitely think the funding piece is critical. So if it does not come with funding, then we would probably remain a no, but we're definitely interested. Thanks.	ECOS - 4/30/2024
Good afternoon everyone. Thank you. To to EPA for for pulling this together into the Ecos team. I I think State 1 is is is a yes, if and the the the if is probably gonna be best examined through the the questions that follow? So if we're just taking this question by question as you presented them, I'd say yes, though. I'm with many of my colleagues here in the how the formulation of the program matters to that. Yes, the yes could become a no depending on how the the remainder of the discussion unfolds.	ECOS - 4/30/2024
Hi, Jill, this is Person 5. I just wanted to give an example, because for us it's really, I think it's more an issue of capacity and administrative funding is not going to address that we've got. We're more focused on our base. Srf, as well as Bill and Arpa, we, our legislature has appropriated about a half a billion dollars in arpa funding. And so we got some additional fte and personal services dollars appropriated for that. But I don't foresee us getting any more, and so I'm concerned that we don't have the capacity to manage additional administration Project administration and still comply with the EPA's policy memo on maximizing water quality and protecting public health benefits. You know their their performance thresholds in there that we're focused on meeting. And so that is the reason that we're not interested in. In. We just don't feel we have the capacity to do it.	ECOS - 4/30/2024
Q. 1. State 12 does not want to manage the CDS projects but it does make sense to coordinate on projects with a joint funding scenario (CDS and SRF). EPA should do the NEPA review, but State 12 could coordinate with EPA while we are doing our Environmental Review which will benefit both entities. State 12 will be inspecting these projects so we can provide EPA with our inspection reports or go on joint inspections. EPA should do the fund disbursement and handle payment requests, or change orders, but EPA should coordinate with State 12 during the payment processing to make sure project components are paid once. We don't want projects sponsors to double dip. State 12 could also help EPA make contact with the entities if they are having problems finding a contact.	ECOS - 4/30/2024
No. NOTE: 10 IDENTICAL RESPONSES RECEIVED	CIFA - 5/6/2024
Q1 - N/A, there are no DW community grants in my state.	CIFA - 5/6/2024
q1- No. No capacity for additional programs.	CIFA - 5/6/2024
Q1. Yes - partially	CIFA - 5/6/2024
Yes	CIFA - 5/6/2024
No. NOTE: 16 IDENTICAL RESPONSES RECEIVED	CIFA - 4/29/2024
No, absolutely not	CIFA - 4/29/2024
No we do not have the capacity. NOTE: 5 IDENTICAL RESPONSES RECEIVED	CIFA - 4/29/2024
Only earmarks cofounded with SRF	CIFA - 4/29/2024
Undecided (as noted in survey). Would be interested in restoring the lost administrative withholds...that's the attraction.	CIFA - 4/29/2024
No. 1 - No, but that can change	CIFA - 4/29/2024
No. 1-No, but that can change	CIFA - 4/29/2024

<p>Topic 2: Factors to take into consideration when deciding which projects and/or parts of projects your state would implement. Please describe, including any identifying any select activities your state might elect to focus on. Examples are below.</p>	
<p>Example Implementation Model A: States apply for and receive a single grant award with underlying projects for all or some of the identified projects. Overall project management for all or select identified CDS projects. Awarding subgrants (i.e., “forgiven loans”) for projects/communities. Ensure SERP completion and state and local procurement compliance. Determine cost share waiver based on State affordability criteria and/or disadvantaged community definition. Standard EPA/federal administrative grant management (budget, workplan, reporting, etc.)</p> <p>Example Implementation Model B: States apply for and receive a single grant award to conduct certain management and oversight activities for all or some of the identified projects while EPA manages direct grants to recipients. Activities may include: Project inspections (annual and/or as needed) Review of bid solicitation and contract documents Review and/or approval of plans and specifications, architectural/engineering (A/E) agreements, recipient procurement systems, payment requests, and/or change orders. Audit resolution support NEPA compliance assistance Standard EPA/federal administrative grant management (budget, workplan, reporting, etc.)</p>	
Input Received	Listening Session
<p>Yeah, Michael, kind of hit on exactly what I what we're thinking, which is the best scenario for us to do some of this work would be if it's already co-funded with another project that we're doing. So if it's already on our list, and already something that we're planning to do, it isn't that too much of a burden for us to pick up the rest of it with that funding availability. That would be the ideal scenario for us.</p>	<p>ACWA ASDWA - 04/30/2024</p>
<p>Yeah, for for State 1. I I think the co-funded example is a is a good one, to be honest, because, you know, and I'm thinking of a specific project we've got now where you know you've got the Srf, it's it's been through the prioritization process, and it's been through, you know you. You've looked at it in terms of you know, holistic watershed, you know, in in the terms of you know, other projects that have come in. You know. I I think our biggest challenge really is, you know, and and it's something that's kind of presupposed. I know EPA is in an interesting position. You know. We're missing the front end in terms of you know the role of the you know. W. How do you vet these projects as opposed to you know. Just individual, I mean, here it is. You know I how do you? How do you make sure that you've got a process in place that you know. Okay, you wanna bring something back to your district. Great Nano congratulations. But we wanna make sure that it fits within kind of the larger frameworks. Especially given the limited resources that we that we have. I mean, that's the that's really the with conditions. It's, you know, if it if it hearkens back to, you know the the the projects being part of what we're doing to make sure that you're getting the right projects in the right place, especially if it's co-funded. If you're leveraging dollars, I think that that works but just kind of adding it on top of the pile, I think, becomes a very complicated challenge.</p>	<p>ACWA ASDWA - 04/30/2024</p>
<p>Q2 - We do not have the capacity to administer federal requirements for these projects. We would only be able to provide assistance for projects that are already joint funded with SRF projects and that assistance would be limited to site inspections, plan and spec review, and review of bid and contract documents.</p>	<p>ACWA ASDWA - 05/03/2024</p>
<p>Q2 - again, my state is currently overloaded with current projects with the additional BIL funding. Having 4 grants to administer per DWSRF & CWSRF is challenging, adding additional grants, in addition to the WIIN grants and the SRF grants would require extra staffing and extra internal resources. Although there are economies of scale, BIL is already pushing those resources to the breaking point.</p>	<p>ACWA ASDWA - 05/03/2024</p>

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Overall project management for all or select identified CDS projects.

Awarding subgrants (i.e., “forgiven loans”) for projects/communities.

Ensure SERP completion and state and local procurement compliance.

Determine cost share waiver based on State affordability criteria and/or disadvantaged community definition.

Standard EPA/federal administrative grant management (budget, workplan, reporting, etc.)

Example Implementation Model B: States apply for and receive a single grant award to conduct certain management and oversight activities for all or some of the identified projects while EPA manages direct grants to recipients. Activities may include:

Project inspections (annual and/or as needed)

Review of bid solicitation and contract documents

Review and/or approval of plans and specifications, architectural/engineering (A/E) agreements, recipient procurement systems, payment requests, and/or change orders.

Audit resolution support

NEPA compliance assistance

Standard EPA/federal administrative grant management (budget, workplan, reporting, etc.)

Input Received	Listening Session
Q2: Neither of these example options is palatable to at this time. There are enough applications staff have to do already for the SRFs and we are not thrilled about managing another one. State statutory limitations do not allow our SRF program to issue Grants. I had a conversation with R9 about partnerships (with funding support) on projects.	ECOS - 4/30/2024
Not interested in implementing CDS projects. If projects are co-funded with SRFs, we would only want to apply our existing processes for the SRF projects and no additional components of the work for CDS.	ECOS - 4/30/2024
State 6 CWSRF is not interested in directly managing Community Grants since they are awarded without any state CWSRF program input, review or prioritization through the well established SRF program process and technical review. We have agreed to coordinate with EPA on projects where we already have awarded CWSRF funding, but still not interested in managing the direct and arbitrary CG awards. These projects are already creating expeditious use of funds issues with EPA and this process would just shift the problems with these projects to the State.	ECOS - 4/30/2024
Model A seems more palatable but I share similar concerns about the constraints and impact to current SRF projects.	ECOS - 4/30/2024
Q2 - Echo Person 9’s comments above. Would add that control and responsibility for the projects would have to be all or nothing - halfway in/halfway out seems unworkable and subjects states to risk (audit or otherwise) beyond their control	ECOS - 4/30/2024
Q2: State 10 is willing to take on oversight of all water infrastructure CDS projects given the relatively small amount that come into our state. I prefer existing SRF ranking structure within intended use plan so would prefer not to have to 'apply' for grants outside of that process. If must choose, probably select Model A to ensure that funding moves in a timely manner.	ECOS - 4/30/2024

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 NEPA compliance assistance
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Input Received	Listening Session
<p>Okay. So now, seeing this, I'm migrating more to the no category, because this feels like we're taking something that was pretty straightforward. And now we're saying the States are going to be applying for all of this. I don't know that I'm super excited about either of these implementation examples. yeah. And this knee jerk reaction definitely not excited. Think this is kind of problematic. And like, I said, this kind of process makes me move more to, you know. I don't think we would want to do that, because clearly we are not. If we get some money, it's not going to be anywhere near enough to do all of this for all of these additional projects. So that's just quick response. Thanks.</p>	<p>ECOS - 4/30/2024</p>
<p>I think. we I I think, share some apprehension about both options, but I think option one was maybe a little bit more palatable for us. I think we had a couple of questions about what that would look like, including You know how closely aligned the criteria could be to existing. Srf, that the extent that there ends up being variations between different programs, that that's add some complications for us and implementing and then there's also a question about Nepa. Compliance will, as with other Sr brands. will we be able to use our state environmental review to satisfy that? Or is there an expectation that we're gonna have to learn or train folks up on a new implementation of environmental review? So as you're evaluating those maybe keep in mind those thoughts about what would sort of lower those hurdles for States that would make taking on the projects more feasible? Thanks.</p>	<p>ECOS - 4/30/2024</p>

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NEPA compliance assistance

Standard EPA/federal administrative grant management (budget, workplan, reporting, etc.)

Input Received	Listening Session
<p>So just leaning into what one of the the speakers had said before, and introducing the question, that that this is in intended to not the models presented, or the way I I heard that was not not intended to be exclusive. That that it could be sort of more modular plugin, plug and play, if you will, if if that is indeed the the case, then I I think that there are, instances where I, the State in State 1, at least project managing some of the awarded congressionally awarded projects would be sensible. Particularly where there is a co-funded project. Element. But it would. It would make the most sense were we able to streamline or mirror the the respective requirements, or conditions of the the respective programs making sure the processes are are as similar as possible so that we are being most effective being most efficient. So meaning that if there is one environmental review process for a Cbs project and another environmental process for environmental review process for an Srf project, getting them to be as much on the same track as possible, would have the most beneficial outcomes for the communities that both the Congressional members and the State agencies are are trying an EPA are trying to serve and could be the most time efficient as well.</p>	<p>ECOS - 4/30/2024</p>

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Input Received	Listening Session
<p>I wanna. I know the time is brief. I wanted to back up a little bit just philosophically. Because we are having a very difficult time even conceptually, with this idea that we would be applying for grants under these model examples. I know there are other scenarios. But, we would be applying for grants to bring money in. That was taken away from us, to begin with. Okay, so that's the baseline that we are dealing with right now. Ongoing discussion, of course, is the fact that our delegation worked hard to get these earmarks in place for the State 2, for the communities that need this funding to do infrastructure projects. So we're very sensitive to that. So we still want to ensure that there's some mechanism in place. And and if we play a role. What would our role be in order to make these projects come to fruition in a timely manner? if you couple that, then with issues that we have with statutory limitations. In our inability to commingle grant funds with Srf funds. We can't issue grants. We can only issue principal forgiveness. Loans. I. Something would have to be done at the Federal level if any of that money were to be received by the State 2 in order for us to even accept it and put it into the program. So it needs to look like a duck and quack like a duck and be a duck in the Srf world. It can't be grant money of a different nature, because we just would not have the legal authority to deal with it. All that being said, one of the things we are actively talking about is the partnership idea projects that we're already partner funding with the Srf. And what role? Can we play to help move those projects forward and at the same time build the capacity of the Federal staff who haven't been doing this for decades like we have. So what can we do to help them grow in their implementation of these projects? Cause they're very new at this. So it's really coming down to? What can we do together to facilitate the</p>	<p>ECOS - 4/30/2024</p>
<p>Agree with Person 2 on this point of comingling. My comment from State 11 assumed that there would be a federal authorization to enable the model suggested.</p>	<p>ECOS - 4/30/2024</p>
<p>No</p>	<p>CIFA - 5/6/2024</p>
<p>Q2 Neither. BTW- Bullets are hard to read.</p>	<p>CIFA - 5/6/2024</p>
<p>Q2 - USEPA has been given funding to implement these grants and needs to figure out how to do so.</p>	<p>CIFA - 5/6/2024</p>
<p>Neither</p>	<p>CIFA - 5/6/2024</p>
<p>Willing to share our inspection reports, EA, and other documentation for SRF co-funded projects. EPA can use it as they wish. Not interested in administering or awarding subgrants.</p>	<p>CIFA - 5/6/2024</p>

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Input Received	Listening Session
Q2 - If we are co-funding maybe similar to model B. Do not want to do the standard epa/federal admin requirements	CIFA - 5/6/2024
Q2 - Possibly Model A if we have enough funding for staffing needs as the base set asides have been drastically cut.	CIFA - 5/6/2024
So I'm curious to know if EPA or Congress is going to establish the same level of like eligibility criteria and then other components similar to the expectations for the Srf program. Because if we go with model A for example and it's not the exact same as Srf. With eligibility through closed out. Then then my State has to stand up a new Grant program and really develop all of all of our processes so that it matches. And and if it's scenario B, then it becomes a lot harder if we're it. If if, then, we're having a different conversation, I'm also worried about like working with communities that are using Srf for part of their project, maybe, and Cds for others, and then think compliance is compliance with Srf. Is negotiable. Based on, you know, their current. Just yeah, just negotiable. That concerns me.	CIFA - 4/29/2024
Yeah, thank you. Sorry I had a received a phone call exactly when I went. Live before. I am not sure I'm answering the question, but I would question why EPA would want to go with Model B, because it would magnify the amount of sort of project oversight, or I should say audit oversight that they would exercise by having direct awards to each recipient community, also direct awards to the States, helping them manage those awards. And so all of those transactions that touched on both sides of that house, for example, the State issues a pay wreck, and then EPA pays it out, would have separate audit chains to them, so that sounds like it could be really complicated. But I apologize. I didn't hear what other folks may have said about this matter. So I just wanted to go on record there with that. Thank you.	CIFA - 4/29/2024
NOTE: PERSON 18's COMMENTS REFERENCED BELOW. We could only provide assistance on joint funded SRF projects and the assistance would be limited to site inspections, bid and contract documents review, review and approval of design plans and specifications.	CIFA - 4/29/2024
I agree with [Person 18] as well, however we do not have the capacity to take this on at this time.	CIFA - 4/29/2024
State 1 is not interested in managing these grants. Therefore for Question 2, the answer would be no part of the project.	CIFA - 4/29/2024

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Neither. Please disclose the issues with existing earmark projects prior to asking us to administer. Hard to answer without understanding the reasons funds aren't getting out the door.	CIFA - 4/29/2024
We are only able to help with partner funded projects for those that are SRF co-funded. We do not have the legal authority in our state to manage funding awarded to a local government (or a grant outside of the SRF program).	CIFA - 4/29/2024
I don't believe in Grant funding of projects through a political process. Further, I believe loans are better than grants due to the fact that the "owner" has skin in the game to provide the best solution for their community.	CIFA - 4/29/2024
Question 2: I would echo [Person 18]'s response. However we do not have any desire to manage grants currently based on staffing capacity and limited resources. We further disagree with the use of the CDS funding at the expense of the SRF programs.	CIFA - 4/29/2024
State 2 is not interested in managing these grants. Our answer is No Involvement other than permitting the project, which we already do.	CIFA - 4/29/2024
Model B is similar to previous earmark oversight model and is more doable. And only SRF on cofunded projects. But we would need more than the old 3%. More like 10%	CIFA - 4/29/2024
For my state, due to staffing capacity, even if we would be willing to support the projects we are also funding with SRF, the financial tracking and challenge of additional of auditing and grant reporting would be more than we could support with current staffing levels. With BIL workload, we have not increased staffing and our capacity to complete all our tasks will continue to be a challenge.	CIFA - 4/29/2024
Question #2: Not interested in any circumstance.	CIFA - 4/29/2024
State 3 CWSRF is not interested in managing these projects that undermine the established SRF program run by the State. We have committed to coordinate with EPA R10 on projects that are already receiving CWSRF funding through the State run program.	CIFA - 4/29/2024

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Not interested in taking on projects, so the answer is none of the above. However, if we take on projects that we are co-funding with SRF funds, we would potentially take on only the components of work that we are already doing for the State-funded project (such as review of plans and specs, procurement compliance, inspections, etc.). This would exclude items like helping the community apply for the federal grant, NEPA compliance (as opposed to NEPA-like), or any other activity not required of the state SRF program.	CIFA - 4/29/2024
Neither option is workable for my state given limited capacity and inconsistency in how the funds are administered for these grants versus the SRF.	CIFA - 4/29/2024
Question 2 - Our state legislation prohibits earmarks (non prioritized projects) from flowing thru SRF. Therefore a new program would need to be developed at a state level. We do not have the capacity to hire a new team to take this on.	CIFA - 4/29/2024
2. We agree with other states as we also have limited capacity and resources. We would need additional information in order to fully answer this question.	CIFA - 4/29/2024
Not interested in managing these grants. Our answer is No Involvement other than permitting the project, which we are already responsible for	CIFA - 4/29/2024
No. 2-Model A, or a version that trends towards the most State control	CIFA - 4/29/2024

Since FY22, Congress appropriated \$3.7 billion for 2220 water infrastructure projects. Congress has also appropriated \$13.3 million in FY23 and \$13.3 million in FY24 in funding for EPA to administer the Community Grants projects. The administrative funding is available for salaries, expenses, and contract support services to implement, administer and oversee Community Grants. The administrative resources provided represent 0.7 % of the Community Grants project funding or roughly \$12,000 for each Community Grants project (the project lifecycle can be 3 to 5 years on average).

Topic 3: Estimated resource needs to adequately implement some or all or of the Community Grants projects within your state. Estimates in terms of percentage of administrative costs compared to total project funding or in terms of average administrative costs per project would be most helpful to informing potential legislative language. Other considerations or limitations that should be recognized.

For comparison, under the previous water earmark program, 3% of the project funding was reserved for construction management and oversight only by states (no other activities, and no funds were available to EPA for grant administration).

Input Received	Listening Session
Yeah, I'll just. I'll just keep going. I don't know that I have a good answer for this one, but cause it would be different, based on the project I would feel if it's a project we're co-funding. It could be a smaller percentage. Because we're already have the processes in place. If it's something new and we'd have to set up a little bit of a program, too, because we don't do grants really in our state the way that this would be set up it? Would we do it all loan forgiveness? So it's a little different, and combined with other agencies within the State. So there'd be a little bit more program setup work that would have to go on, and probably a larger percentage that would be needed to to fund it. I think 3 to 4% is a good good number, but.	ACWA ASDWA - 04/302024
I would just add, maybe onto the list of eligible expenses technical assistance for the applicants. And I don't mean let's have EPA create another big technical assistance program. But just you know the State staff in engaging with Grant or loan applicants and trying to help them work through the process, make sure they understand what needs to happen. So I think, you know, calling that out specifically might be helpful, and those that tends to be a buzz word. That Congress likes is to provide that technical assistance. But I would want it to be specifically each State receiving that funding for technical assistance, so it can be tailored to the their specific process or state specific requirements that go along with any project. So that would just kind of be a quick response. So thank you.	ECOS - 4/30/2024
Q3: 3% workable. More better. State staff can do technical assistance as we know our constituents better than EPA.	ECOS - 4/30/2024
for #3, 0.7% of project value is not sufficient for administration. in State 11, we find that 2% is a minimum.	ECOS - 4/30/2024
Q3. The current DWSRF administrative and TA set aside of 4% is a good estimate for State 8's current personnel and operational expenses. However STATE is not interested in taking on CDS implementation.	ECOS - 4/30/2024
Q3: The program administration costs should be covered similarly to the SRF set-aside percentage, at a minimum.	ECOS - 4/30/2024
Question 3: in State 11, we assess a 2% fee on all loans intended to cover P&D, construction and loan administration costs.	ECOS - 4/30/2024
I think 0.7% is insufficient	ECOS - 4/30/2024
For question 3, State 7 has not estimated the necessary funding for administration of community projects. However, we would not anticipate receiving additional FTE to do the work from our General Assembly even if adequate federal funding for state administration was available.	ECOS - 4/30/2024
Q3: The CDS projects have too many unknowns due to being awarded with no technical review or prioritization. So no good way to give a good estimate for cost to manage. This is why we are simply not interested in managing CDS projects. Admin funding would not change the fact that many of these projects pose management problems.	ECOS - 4/30/2024

Since FY22, Congress appropriated \$3.7 billion for 2220 water infrastructure projects. Congress has also appropriated \$13.3 million in FY23 and \$13.3 million in FY24 in funding for EPA to administer the Community Grants projects. The administrative funding is available for salaries, expenses, and contract support services to implement, administer and oversee Community Grants. The administrative resources provided represent 0.7 % of the Community Grants project funding or roughly \$12,000 for each Community Grants project (the project lifecycle can be 3 to 5 years on average).

Topic 3: Estimated resource needs to adequately implement some or all or of the Community Grants projects within your state. Estimates in terms of percentage of administrative costs compared to total project funding or in terms of average administrative costs per project would be most helpful to informing potential legislative language. Other considerations or limitations that should be recognized.

For comparison, under the previous water earmark program, 3% of the project funding was reserved for construction management and oversight only by states (no other activities, and no funds were available to EPA for grant administration).

Input Received	Listening Session
Q3: Given the expected workload, agree it would be appropriate to be covered similarly to the SRF administrative set-aside (4%).	ECOS - 4/30/2024
Q3- Impossible to answer without a deeper understanding of the underlying issues with FY22-24 community grants.	CIFA - 5/6/2024
Need more time to process these questions, consider, and provide a meaningful response.	CIFA - 5/6/2024
Q3 - Would need more information. Heavily dependent on the nature of the oversight state programs are asked to take on. Also worth noting difficulty retaining/hiring staff for existing programs, so capacity can be an issue regardless of available funding.	CIFA - 5/6/2024
At least a 1% off the total dollar amount for administrative expenses. It's also important to note that these dollar amounts excluding interest would traditionally recycle back into the SRF program. Earmarks pull them out of the capital cycle.	CIFA - 5/6/2024
Q3 - We would need at least 4% for administration costs.	CIFA - 5/6/2024
Staffing is still the issue. As mentioned before, willing to share information on co-funded projects.	CIFA - 5/6/2024
q3 - minimum of 4% of fed grant for administration of these funds... if using model A in particular there are more requirements for us to implement over the lifecycle of the construction period. May need additional staff, which may not be possible	CIFA - 5/6/2024
Not in favor but 3% does not seem to be enough	CIFA - 5/6/2024
Q3 - staffing limitations	CIFA - 5/6/2024
Q3- It depends on the expectations for administration.	CIFA - 4/29/2024
Question#3: We still have no desire to administer these projects. Due to the volatility and lack of consistency higher administrative costs would be needed. I anticipate a minimum of 5% and likely closer to 10% of the individual project costs being needed to adequately assist in administering these projects.	CIFA - 4/29/2024
If it were 100% we would consider it. Joking aside, our state is not interested.	CIFA - 4/29/2024
Without knowing the issues, how can we determine the admin costs?	CIFA - 4/29/2024
\$12K per project is inadequate, especially when they are larger projects with multiple funders in a stack. The 3% is something our State has discussed as potentially doable, especially where those projects are co-funded with SRF loans, as was done during STAG years.	CIFA - 4/29/2024
Why isn't EPA asking for enough money to administer? Why ask states?	CIFA - 4/29/2024
Just FYI - Two-thirds of 2024 earmarks are for \$1 million or less.	CIFA - 4/29/2024
would prefer 10 percent earmark for project management, oversight, and grant management	CIFA - 4/29/2024

Since FY22, Congress appropriated \$3.7 billion for 2220 water infrastructure projects. Congress has also appropriated \$13.3 million in FY23 and \$13.3 million in FY24 in funding for EPA to administer the Community Grants projects. The administrative funding is available for salaries, expenses, and contract support services to implement, administer and oversee Community Grants. The administrative resources provided represent 0.7 % of the Community Grants project funding or roughly \$12,000 for each Community Grants project (the project lifecycle can be 3 to 5 years on average).

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Input Received	Listening Session
Q3: There isn't an estimate. Not interested in doing it.	CIFA - 4/29/2024
Doesn't matter if you can't hire and don't have staff capacity.	CIFA - 4/29/2024
Q3: We would need state legislative action in order to add administration and a new program to allow state SRF programs to manage projects that bypassed the State law for the priority system.	CIFA - 4/29/2024
Admin costs are better derived from project cost not earmark amounts.	CIFA - 4/29/2024
It isn't as simple as a percentage per project. The loss of CapGrant and associated set-asides and admin fees that could be used for various other purposes, put our existing program's success at odd with these Community Grants Projects. Even if we were provided admin fee sufficient, we have organizational caps on staffing that restrict us from adding staff. These caps are already creating issues in managing BIL.	CIFA - 4/29/2024
The amount of funds needed is no relevant if a new program needs to be stood up. Likely the issue is timing (years) not dollars.	CIFA - 4/29/2024
Q.3: We are not interested in managing projects that have not applied for and been selected by the State under the existing CWSRF program. Again these community grant awards are undermining the SRF programs and funds should be awarded directly to the SRFs to be awarded through the well run system in place for projects that are have been evaluated and are ready to proceed.	CIFA - 5/6/2024
Q3: There are, and can be severe staffing shortages at a lot of communities receiving these grants. In these cases the lack of staff can result in mismanaged projects. Often these staffing shortages are long term issues which cannot be resolved with just grant funds for administration.	CIFA - 5/6/2024
No. 3-Need some type of Implementation Document, or T&C's for an answer, without then the answer is 10 to 12%...	CIFA - 4/29/2024

<p>Topic 4: Aside from resources, the incentives, limitations, and/or requirements, to be needed for a state to elect to implement Community Grants projects. Examples provided below:</p> <p>Intended Use Plan (IUP) inclusion SRF co-funding Projects that meet affordability criteria Acceptance of SERP in lieu of NEPA</p>	
Input Received	Listening Session
Like just kind of to follow up with my last comment, which is that we run this in coordination with another agency. we kind of both have to be on board in order for this to work properly. If we wanted to do it it it that would be one of the biggest limitations. I feel like.	ACWA ASDWA - 04/30/2024
SRF co-funded could be an important inducement, as would IUP inclusion	ACWA ASDWA - 05/03/2024
Q4 - Fully Fund SRF appropriations - for SRFs.	ACWA ASDWA - 05/03/2024
I think one of the concerns I have for some projects is whether or not there is, sustainability in terms of the community being able to support ongoing operations and maintenance. And so for projects where the State were to engage, my hope would be that there is also a plan for that long term. Maintaining of the facilities and of the investment. And so and there may be lots of different ways to provide for that it. Maybe it's rates that the community is willing to pay as utility repairs. Maybe it's grant funding or or some other arrangement. But I think, seeing the State invest its time and energy and resources into a project, it would be helpful to know that it's an investment that's going to be a lasting one for our and not something that is only a a short term bump in So for the community. But then it says lost, because there's not the ability to to support it financially on an basis.	ECOS - 4/30/2024
Yeah. So I would, you know. Kinda add, the ability of this project to be funded? Completely. We've seen several projects where it was 5 million dollars awarded to the community. But then, you know, they it's a 16 million dollar project and they have applied. They're on the funding list at Usda rule development, but they know it's 3 to 5 years before they even have a chance of getting that funding. They don't qualify, maybe an Sr. Because of debt service. So now there's this 5 million dollar sitting there. That you know. Maybe it's still gonna be there when they get around to being able to fund the project and get the work done. So I think the complete funding of the project has to be part of that conversation. I don't have the solution. But I do think that that needs to kind of go on the list of considerations. And how do we deal with that? I think you know that definitely is a limitation. That we face? So I just wanted to throw that out there. Thank you.	ECOS - 4/30/2024
Good afternoon, Person 6. I'm the [Redacted] to EPA. I guess, like the 4 items that are listed here like they're all issues. You know that we'd have to consider. But I think the the fact that the earmarks currently bypass the lup process. you know, figuring out a way to to revise the lup in a way that allows us to include these projects. and a lot of them may or may not meet the other requirements of our up as far as being an open bird community or disadvantaged. So I think that that would be one of the challenges of how you would incorporate that into your process.	ECOS - 4/30/2024

<p>Topic 4: Aside from resources, the incentives, limitations, and/or requirements, to be needed for a state to elect to implement Community Grants projects. Examples provided below:</p> <p>Intended Use Plan (IUP) inclusion SRF co-funding Projects that meet affordability criteria Acceptance of SERP in lieu of NEPA</p>	
Input Received	Listening Session
<p>Thank you. On the Affordability bill on the affordability criteria. outside of the 2223 and 24 funding, it would, assuming these go forward in future funding cycles. We would really like to see there be a process that not only checks the affordability criteria at the Federal level, but connects with the State. and ensuring that the project meets affordability criteria at the state level, because those aren't always the same and so I. There's a gap there that needs to be closed during the project application process. So whether or not you know, a project is already being funded or if it meets the State's affordability. Criteria. Thank you.</p>	ECOS - 4/30/2024
<p>Q4: No</p>	ECOS - 4/30/2024
<p>On question 4, it would be helpful to know how EPA will address community projects that are not SRF eligible.</p>	ECOS - 4/30/2024
<p>Q4: At this time, as noted, State 13 is only interested in discussing projects that are being co-funded with the SRF already. We do not have the resources (and recruitment/retention issues are still severe) for taking on EPA projects 100%.</p>	ECOS - 4/30/2024
<p>NOTE: PERSON 9's COMMENTS REFERENCED BELOW. Q4: No incentives would address the core issue of handing out earmarks to projects with no technical review or appropriate prioritization.</p>	ECOS - 4/30/2024
<p>Q4: I concur with Person 9's response to this question as well.</p>	ECOS - 4/30/2024
<p>This may not be enough to get states to WANT to manage the project BUT we would like to see CDS projects be ready to build when funds are awarded- (funds should be swept back into that state's SRF account if construction hasn't begun in a year or two)</p>	ECOS - 4/30/2024
<p>Hey? Th, this is Person 7's eco staff, and I I just wanted th. There's an a whole entire area in addition to resources which auto, I think the States ought to have the benefit of what is Ogc. EPA's office of General Councils. view and and view of a week on liability for and not just of lack of a financially sustainable project. That's that's that's the recipient of the the Grant money. But when environmental violations occur the liability of the State currently or in the future. If a State was now assuming implementation responsibilities for these projects, I know under current law when a wastewater treatment plant is under a consent order, where is violating the Clean Water Act the State, it can be automatically joined in the litigation by the Federal Government. So to some extent the State may be on the hook. I would like love to get more information about. If there is a transfer of responsibility from EPA to us, the 2 States, what would be the you know, what is Ogc's perspective on on liability. It it always, you know, who owns the opera or operates the facility is about most importance, but with Federal money and with having bypass the State intended use plan and other reviews. I just think there's a legal vulnerability question beyond just the resources question that I would love to get more information on. It's just this before a decision's made. Thank you.</p>	ECOS - 4/30/2024

Topic 4: Aside from resources, the incentives, limitations, and/or requirements, to be needed for a state to elect to implement Community Grants projects. Examples provided below:	
Intended Use Plan (IUP) inclusion SRF co-funding Projects that meet affordability criteria Acceptance of SERP in lieu of NEPA	
Input Received	Listening Session
EPA should use their officers to administer these grants	CIFA - 5/6/2024
IUP and PPL listing, affordability criteria, and SRF recapitalization	CIFA - 5/6/2024
q4 require IUP, SERP, maybe co-funding	CIFA - 5/6/2024
At a minimum, would require IUP, co-funding, and SERP	CIFA - 5/6/2024
Not in favor of implementing grants but acceptance of SERP would be needed	CIFA - 5/6/2024
Q4- Not interested but it would make sense for the SRF and CDS grants to have the same requirements.	CIFA - 5/6/2024
Need more time to provide answers.	CIFA - 5/6/2024
Q4 - all for examples would be mandatory	CIFA - 5/6/2024
and IUP inclusion	CIFA - 5/6/2024
CDS must accept the SRF requirements of the State administering the grants. No duplicative work.	CIFA - 5/6/2024
Q4 - If we are forced to administer IUP inclusion and SRF co-funding should be required	CIFA - 5/6/2024
SRF cofunding	CIFA - 5/6/2024
all four bullets from Q4.	CIFA - 5/6/2024
It appears EPA is headed down the path of shoving this on the States. Perhaps it would be helpful for them to explain the hurdles of why they have issued less than 10% of these countrywide in the past two years and why they believe the States will be in better position?	CIFA - 5/6/2024
Issue the grants as loans (not PF).	CIFA - 5/6/2024
At the very least bullets 1, 2, and 4. Preferred to have bullet 3, as well.	CIFA - 5/6/2024
Q4: We are only able to help with co-funded projects. We do not have state authority to bypass the priority process and/or fund grants awarded directly to systems outside of the SRF program.	CIFA - 4/29/2024
Q4. No incentives would help	CIFA - 4/29/2024
Q4. Sperate authorization for earmarks. Don't tie the earmark funding to SRF.	CIFA - 4/29/2024
If the requirements for the projects were exactly the same, just the way the community got the project on the PRL was different, it would be doable. We don't want to be responsible for another funding pot that comes with unique subrecipient requirements pre or post assistance agreement.	CIFA - 4/29/2024
We have no interest in this. However, if EPA/Congress wanted to make this doable, then match federal requirements to ARPA and waive BABA for all projects.	CIFA - 4/29/2024
Earmarks not being funded with a direct reduction in SRF funds to the states. Until we see this not be a direct reduction to all states funding we do not have an interest is assisting. All of the above options after that.	CIFA - 4/29/2024

Topic 4: Aside from resources, the incentives, limitations, and/or requirements, to be needed for a state to elect to implement Community Grants projects. Examples provided below:

Intended Use Plan (IUP) inclusion
 SRF co-funding
 Projects that meet affordability criteria
 Acceptance of SERP in lieu of NEPA

Input Received	Listening Session
All four of those are good, especially #3 because some CDS awards really run afoul of equity considerations or J40 (tho its getting better with time). One thing that also needs to be solved is the loss of DWSRF setasides in the formula minimum states. Those really are some pretty big hits. Unless you have a good admin fee reserve on the DW side, your regulatory DW program is fast going into a hole.	CIFA - 4/29/2024
SRF co-funding, SERP in lieu of NEPA, project would have scored above the funding line in our IUPs at the time of award, project benefits a disadvantaged community, AND no additional requirements imposed beyond what SRF projects have to do. All of the conditions above ("and", not "or")	CIFA - 4/29/2024
If we could be part of this on the front end. Included in prior year IUP or congress can only pull from a list provided by the SRF leadership?	CIFA - 4/29/2024
Projects would need to follow the SRF application process and be prioritized on an annual IUP.	CIFA - 4/29/2024
Q4. Fully fund the SFR	CIFA - 4/29/2024
Q4- those all look good. Many of our challenges revolve around AIS and BABA compliant materials. Any waiver on those requirements would be helpful in both our reviews and the communities ability to move the project forward. Waiver from Davis Bacon wage reporting would also be helpful, we find additional reporting for Davis Bacon does not impact the labor rates in our union state, but does increase costs due to additional clerical tracking and paperwork.	CIFA - 4/29/2024
Separate authorization for CDS; not funded out of SRF in the future.	CIFA - 4/29/2024
Q4. Fully fund the SRF's and authorize CDS projects independently (separate funding source).	CIFA - 4/29/2024
Q4: Fully fund the SRFs at authorized levels and fund CDS from some other source.	CIFA - 4/29/2024
No. 4-SERP over NEPA	CIFA - 4/29/2024

Topic 5: Considerations related to impacts of State implementation of Community Grants projects, to SRF programs.	
Input Received	Listening Session
Okay, this is this is the big one. I think that is the biggest sticking point that the SRF programs are built to kind of maintain in perpetuity, whereas the grants are just money given. So it it definitely impacts with the this directed spending, cutting off the top of the Srf programs. It takes money away from this is this is definitely where it gets sticky. I believe. and kind of the hardest, the hardest part to if we if the community grants is like a long term ongoing thing cutting money away from the Sr. It it cripples the SRF programs in the long run.	ACWA ASDWA - 04/30/2024
Thanks. This is easy, in short, but I really wanted to verbalize it instead of just putting it in the chat. There is a fundamental difficulty in moving all projects of this nature with archeology and section 1.06. Compliance. It would be hugely beneficial if EPA invested in archaeological resources for these and all Sr projects to address those requirements of use of this funding.	ECOS - 4/30/2024
Not sure if this is what the question is meant to be, sort of driving at or not, but I know that one of our overarching concerns with the Congressional directed spending has been sort of the sustainability of our set asides for our drinking water and other regulatory programs that the Sr. Supports and wanting to know that long that you know, understanding that currently that impact has been dealt with through the age of funding coming through and and bill monies. But that longer term that there is stability. the funding for those state programs. I think that has been one of the impacts that many States have been concerned about.	ECOS - 4/30/2024
Hi, yeah, I guess for this. And this may not be like what you're looking for here. But, like, you know several of the projects on State 1's list You know, do not meet justice. 40 and others so like, how would the evaluation of the State's Srs program be impacted. or would it at all be impacted by, you know, taking on additional projects that we did not select and maybe do not follow, some of the prioritization schemes that we have in our own intended use plan.	ECOS - 4/30/2024
Q5: I support Person 1's comment on this item re sustainability of SRF program set-asides.	ECOS - 4/30/2024
Q5: State 8 is also concerned with meeting EPA policy for timely and expeditious use of SRF Funds. We have a robust pipeline of projects that we are trying to move forward.	ECOS - 4/30/2024

Topic 5: Considerations related to impacts of State implementation of Community Grants projects, to SRF programs.	
Input Received	Listening Session
Q. 5 EPA is in a better position to attract and hire engineers than state agencies .	ECOS - 4/30/2024
NOTE: PERSON 10's COMMENTS REFERENCED BELOW. 5: Taking on CDS would negatively affect timely and expeditious use of SRF funds, getting the BIL funding out, and expending ARPA funds which has to be expended by December 2026.	ECOS - 4/30/2024
Q5: State 5, State 13 and 9 supports the statement made by Person 10	ECOS - 4/30/2024
Q5 - Selected projects reduce SRF demand. How will EPA account for this in their assessment of unacceptable performance by a state in timely and expeditious use of funds?	ECOS - 4/30/2024
NOTE: PERSON 11 COMMENTS REFERENCED BELOW. Q. 5 Taking on CDS projects would mean more projects to manage, more administrative work to apply for additional federal grant dollars as well as the work that goes along with reporting. Coupled with state's struggle to hire project engineers to manage these projects. it put's states in the position of having to give this work to existing project management staff and administrative staff. EPA is in a better position to attract and hire engineers.	ECOS - 4/30/2024
State 7 concurs with Person 11's comment.	ECOS - 4/30/2024
NOTE: PERSON 9's COMMENTS REFERENCED BELOW. Q5 an Q6: maybe not answer to the question but, the CDS earmarks are undermining the SRF program in a number of ways. We have communities that should be applying to the CWSRF program that are going directly to their congressional rep to get this "free" money for projects that are not ready to proceed. Because CDS is taking away SRF resources we have less funding to address project needs, including forgivable subsidy for disadvantaged communities. The SRF programs need to be fully funded at federally authorized levels and fully utilized to meet community water infrastructure needs. Unfortunately CDS is circumventing and undermining the very well managed SRF programs.	ECOS - 4/30/2024
I agree with Person 9's Q5 and Q6 response. NOTE: 2 IDENTICAL RESPONSES RECEIVED	ECOS - 4/30/2024
Q5&Q6: STATE concurs with Person 9 and Person 10; aside from community grants undercutting capitalization of SRF, this effort threatens to divert a state's human capital away from managing the SRFs, which heretofore were operating with great effect.	ECOS - 4/30/2024

Topic 5: Considerations related to impacts of State implementation of Community Grants projects, to SRF programs.	
Input Received	Listening Session
From the SRF community: Some states have restrictions on hiring staff even if they receive federal funding for administration	CIFA - 5/6/2024
Q5- Yes, staffing	CIFA - 5/6/2024
Q5 Administering earmarks will negatively impact timely and expeditious use of SRF funds.	CIFA - 5/6/2024
q5 staffing, workload with ARPA impact to the program. why receive a loan when can wait to get a grant from CDS instead.	CIFA - 5/6/2024
Q5 - If projects not required to be on State's PPL/IUP they may not move any faster than they are now.	CIFA - 5/6/2024
Impact to SRFs - loss of capitalization and capital recycling for future projects, regulatory review in place to ensure project feasibility, staff bandwidth considerations, implementation period, grant allocation and disbursement considerations	CIFA - 5/6/2024
Capacity and funding constraints to manage the SRF programs. Would add yet another program on top of recently added (BIL: GS, EC, LSLR) programs to manage.	CIFA - 5/6/2024
q5 staffing, workload with ARPA and impact to the program. why receive a loan when can wait to get a grant from CDS instead.	CIFA - 5/6/2024
EPA has expressed concerns about timely and expeditious use, this has the potential to exacerbate it.	CIFA - 5/6/2024
equity; favors systems with access to lobbying. Undermines intent of BIL and bypasses structure of SRFs (with vetting for benefits to health and the environment).	CIFA - 5/6/2024
Q5 - States should not have to implement projects to satisfy political egos.	CIFA - 5/6/2024
Some states can't hire, even with additional admin.	CIFA - 4/29/2024
Not sure about the wording of the question. It seems to imply a scenario that states take on the admin of the community grants projects. Clarify?	CIFA - 4/29/2024
Q5. As others have mentioned, having a separate funding source for CDS outside the SRF authorization is imperative.	CIFA - 4/29/2024
If this is shoved down the throats of the states, you might as well wave goodbye to the SRF.	CIFA - 4/29/2024
Its just not a good practice to have earmarks, so we're left with non optimal options	CIFA - 4/29/2024

Topic 5: Considerations related to impacts of State implementation of Community Grants projects, to SRF programs.	
Input Received	Listening Session
Q5. Disadvantaged definition differs from state's definition. Projects have not applied to a SRF program and may or may not be ready to proceed with moving a project forward (construction) in a given year.	CIFA - 4/29/2024
Q5: In our state, if it is not directly tied to the federal SRF program, or allowed to be distributed as a principal forgiveness loans, then my program cannot administer it. It would require the establishment of a new state program that would need legislative action.	CIFA - 4/29/2024
Q5- Don't want the states to be blamed for past failed administration of earmarks. It seems EPA is trying to shift the responsible and future blame to the states.	CIFA - 4/29/2024
State 4 would have to create a new program	CIFA - 4/29/2024
Q5: CDS has already impacted State Programs by reducing their admin allowance available to administer (by cutting our allocations).	CIFA - 4/29/2024
Q5: New program here	CIFA - 4/29/2024
No state SRF program should be mandated to provide oversight. States should have the ability to opt in for some or all earmarks in their state	CIFA - 4/29/2024
Not supportive. However the lack of known consistent projects or funding levels makes it very difficult for SRFs to plan, budget, manage and be able to handle these projects.	CIFA - 4/29/2024
Q5. State 1 would need to create a new program.	CIFA - 4/29/2024
Q5- We would need to create a new program.	CIFA - 4/29/2024
We have to have authority to do this. And the authority comes from the state.	CIFA - 4/29/2024
Q5: State 5 would need to create a new program	CIFA - 4/29/2024
Some of our current state SRF staff will resign if we're forced to do this. We have fundamental disagreements with this and would rather leave than support earmarks.	CIFA - 4/29/2024
State 2 would have to create a new program.	CIFA - 4/29/2024
May not have to create a new program as we previously managed STAG grants within however the staffing levels have not increased and the work volume has.	CIFA - 4/29/2024

Topic 5: Considerations related to impacts of State implementation of Community Grants projects, to SRF programs.	
Input Received	Listening Session
We wouldn't necessarily have to create a new program, but we would need more staff within our PM team. But it would confuse the communities (our borrowers) as to the differences in the programs.	CIFA - 4/29/2024
q.5 my state would need a new program or subprogram to implement.	CIFA - 4/29/2024
5 - currently also administering WIIN grants, this would probably be similar to that path, but with limited staffing, all these projects continue to add workload on staff overloaded with BIL projects.	CIFA - 4/29/2024
In State 4 we are concerned we might not even have the authority and would require additional statutory language to be approved before existing program could take on CDS	CIFA - 4/29/2024
This question presumes that the states will do this. I don't think that can be assumed. Question 5 carries many implications to state SRF programs. Policy, Admin, Fiscal Management, etc.	CIFA - 4/29/2024
5- Would be easier to administer if requirements were the same. But still not interested.	CIFA - 4/29/2024
Takes time away from administering SRF and other funding programs we are administering, many of which have deadlines and pace or timely and expeditious use considerations that will be negatively affected. Would require developing a new process. Would need to hire more staff. This also goes against the prioritization system created for our State under state statute, so long term would create an unfairness impact when we're devoting our state employee staff time on non-prioritized projects. May need separate State authorization for us to administer.	CIFA - 4/29/2024
Facilitating CDS would decrease our pace, disbursements, and timely and expeditious use of funds for SRF. We won't gain staff. so doing more with less	CIFA - 4/29/2024
No. 5-A level of Community Grant funding that can be implemented, if a \$1M appropriation results in a \$2 to \$3M increase in the overall project cost due to BABA & Davis Bacon, then is the State 'on the hook' for a failed project implementation, and will the associated administration cost be clawed back from the States?.	CIFA - 4/29/2024

Topic 6: Considerations not mentioned above that should be reflected in the establishment and authorization for state implementation of Community Grants Projects.	
Input Received	Listening Session
I think the biggest consideration would be that the way that the these grants are given they don't. They don't go away. They can't go to anybody else. They. if they're if they have to go to specific facilities which they do, or systems or municipalities. If we can't get the information we need or the project going the way we want. what kind of responsibility? Or we have to hold on to that money. If if we can't get the utility to to pursue it, to move forward with it. Is EPA going to be asking us, hey? Why aren't you guys moving this money? And does it become our responsibility, even though we don't have like the ability to move it to another system that might need it.	ACWA ASDWA - 04/30/2024
This is more towards the CIFA/ECOS sessions Yes's and No's are tied to the randomness of CFP/CDS funded project appropriations. The SRF being National Needs Survey based means both the funding and the administration needs are to the extent possible, comparatively, equitably allocated. With the CPF/CDS, being random in type, solicitation, number and award amount, how can any State that is not in the group that is receiving many CPF/CDS appropriations be willing to commit where there is no stability for the remaining States in this entire process. Congress may want EPA to consult with the States here, but Congress itself has created this imbalance in the system for drinking water and wastewater infrastructure, and the only way to overcome the imbalance is to overfund its' administration, not 0.7% to 3%...a minimum dollar set-aside amount, regardless of the appropriated projects or only those states where these CPF/CDS project are funded at higher levels in number and amount, will they be able to commit.	ACWA ASDWA - 04/30/2024
yes	ACWA ASDWA - 05/03/2024
Excuse me, I just I think, one of the things that I'm struggling with, and you know, I admittedly I just signed up to. I just registered today. So maybe I missed something. But I was when this was described as being a listening session. I was thinking I was going to I don't know, hear more. And so the discussion questions are, you know, ones that I think I would need to think through with my organization. And so where can we find these 6 questions so that we can kind of think through them as we develop our comments. And again, I apologize. If you've already said this, or if you've posted this somewhere.	ACWA ASDWA - 05/03/2024

Topic 6: Considerations not mentioned above that should be reflected in the establishment and authorization for state implementation of Community Grants Projects.	
Input Received	Listening Session
NOTE: PERSON 9's COMMENTS REFERENCED BELOW. Q5 an Q6: maybe not answer to the question but, the CDS earmarks are undermining the SRF program in a number of ways. We have communities that should be applying to the CWSRF program that are going directly to their congressional rep to get this "free" money for projects that are not ready to proceed. Because CDS is taking away SRF resources we have less funding to address project needs, including forgivable subsidy for disadvantaged communities. The SRF programs need to be fully funded at federally authorized levels and fully utilized to meet community water infrastructure needs. Unfortunately CDS is circumventing and undermining the very well managed SRF programs.	ECOS - 4/30/2024
I agree with Person 9's Q5 and Q6 response.	ECOS - 4/30/2024
Q5&Q6: STATE concurs with Person 9 and Person 10; aside from community grants undercutting capitalization of SRF, this effort threatens to divert a state's human capital away from managing the SRFs, which heretofore were operating with great effect.	ECOS - 4/30/2024
Q6: States should have the option to implement CDS projects until all the ARPA and BIL funds are expended.	ECOS - 4/30/2024
Q6 cont'd: States should not be required to administer.	ECOS - 4/30/2024
Over burdening our state project managers could lead unsatisfactory management of both SRF and CDS projects which is not an acceptable situation.	ECOS - 4/30/2024
Q6. With WIFIA, states worked in the right of first refusal. that would be a good tool going forward.	ECOS - 4/30/2024
No, thank you for that. I think it's clear. And and I just want to clarify that we're in in State 3. We we were aware of a list of proposed earmarks. We don't know which earmarks were funded. We know that some of those earmarks you know we could support others. We, for various reasons, and some of them have been discussed. We we wouldn't support. So that's a complexity of ask, you know answering some of your questions.	ECOS - 4/30/2024

Topic 6: Considerations not mentioned above that should be reflected in the establishment and authorization for state implementation of Community Grants Projects.	
Input Received	Listening Session
yeah, I think one of the things that we were thinking about that when you look at some of these projects that that received earmark funding. Some of them might have been better off just coming through srf, directly. Especially the high priority ones. So that's something that you know, and at the end of the day you know, they would probably not get any more principal forgiveness, since they're already getting the grant. and you know, at least for State X2. Some of the projects might might be better off just going through Sso. Directly, with all this additional funding that's coming in. I don't know if that's something that would ever be considered, as you know, if you decided to take on some of these projects.	ECOS - 4/30/2024
Well, I think it's help. It will be helpful to avoid any potential landmines in ultimate. You know, presentation to Congress. If the states have the opportunity to reflect upon the proposal and provide any kind of feedback to that. I think that you know, as we kind of identify from the beginning. It's easier to react to something and say, You know, tweak it here, tweak it there. This will work, this won't work. This might work for my state. You know, this might not work for my state, but it's hard to provide feedback without having some kind of idea to react to. So I think it puts the Srf sort of in a disadvantage. Without having any kind of concept. you know, to to reflect on.	CIFA - 5/6/2024
These projects have to be vetted, they are not moving along for a reason. I'm not sure the States can administer them any faster than EPA.	CIFA - 5/6/2024
q6- only implement FFY 25 projects or later, and only if states are interested.	CIFA - 5/6/2024
Q6 - If earmarks continue after BIL, we will not have sufficient funds to administer the SRF program, let alone take on more work	CIFA - 5/6/2024
impact to the revolving nature of the SRFs - loss of capitalization dollars and loss of revolving funds.	CIFA - 5/6/2024
q6 staffing, equity of grant funds, not funding based on PPL, timely and expeditious use, precedent for grants over loans	CIFA - 5/6/2024
Q6 - We are being asked to administer grants that are being provided to garner votes, not necessarily the most pressing need of a system or solving a compliance situation.	CIFA - 5/6/2024

Topic 6: Considerations not mentioned above that should be reflected in the establishment and authorization for state implementation of Community Grants Projects.	
Input Received	Listening Session
Q6- Attaching CDS directly to the SRF's will make it much more difficult or impossible to prevent CDS grants from cannibalizing the SRFs into the future.	CIFA - 5/6/2024
Q6 - Ditto to previous comments about pace, timely & expeditions.	CIFA - 5/6/2024
Impacts to SRF in terms of taking funds off the top of the SRFs	CIFA - 5/6/2024
Have the same concerns with the timely and expeditious use memo if also implementing earmarks.	CIFA - 5/6/2024
Q6- I fear SRF's will step into EPA shoes and get the blame for the failures of EPA to administer the community grants.	CIFA - 5/6/2024
Agreed - will SRFs be blamed if community grants aren't administered completely?	CIFA - 5/6/2024
Q6 - EPA feels we're behind on implementing our own vetted projects, hence the timely and expeditious use memo. How would putting the burden of responsibility re earmarks on us help? We're being set up to fail.	CIFA - 5/6/2024
Q6- Please make the administration of community grants voluntary not a mandate!	CIFA - 5/6/2024
I think one thing that hasn't been addressed by EPA that should be addressed by EPA or Congress is what are the what are the characteristics of the projects beyond just eligibility for the Srs. So I think that is a consideration that should be or that's something that should be considered as part of the recommendations to Congress. That, you know, are the projects on the lup are the projects you know, qualify for the disadvantaged community, you know, for additional subsidy, and grants under the additional disadvantaged community criteria. And affordability criteria described by the States, are the projects ready to proceed. I think these are all the other considerations that haven't been mentioned about the projects that could be a a huge factor in whether or not the Srs could successfully implement an S. You know, an in earmark project so potentially a requirement that that all that information be provided.	CIFA - 4/29/2024

Topic 6: Considerations not mentioned above that should be reflected in the establishment and authorization for state implementation of Community Grants Projects.	
Input Received	Listening Session
I do have another tech. And this this would be a this would be a a technical question, Michael, which you might not have the answer to. But have have you thought about? Where will this be us? Will this be under the Sr. Section of the law, or will this be separate? Have you guys thought about that from a very technical aspect? So will it be changing the Clean Water Act and the safe drinking water act in the Srf areas? Or will this be something brand new? Or have you even thought about it.	CIFA - 4/29/2024
It was just that they asked for legislative text. So I just wondered if there would be changes to the current law, or whether this would be a whole new section of law.	CIFA - 4/29/2024
Well, I I think it's it's a matter. It's it's important in the sense that if there are plans to make changes to the current statute where the Srs are defined that has a bigger, broader impact to all the Srs. Regardless of if they decide to undertake earmarks as opposed to. If it's a completely different section.	CIFA - 4/29/2024
Well, the the problem with the well, I would say, although I've not connected with my members about this, that robust appropriations language would have would have to be perpetuated in perpetuity in order to manage the earmarks. I would guess I mean you, or or which, or it has a potential to change. I mean, I think if this is I mean, I guess that would be a concern that that I would have. You know that they can that it's temporary. It's one year last one year, and you can't move forward. Yeah, you can't. You can't approach, can't put language in there to to to make it mandatory for future projects beyond the fiscal year, that of the appropriation	CIFA - 4/29/2024

Topic 6: Considerations not mentioned above that should be reflected in the establishment and authorization for state implementation of Community Grants Projects.	
Input Received	Listening Session
Okay, Michael, I'm just gonna give some thoughts to the members in the last couple of minutes about how they should prepare their comments. And we'll be providing more information to folks who want to provide their comments anonymously. If you could hold before you send those anonymous comments to me until you get that email from CIFA. I would be grateful. But I think you know, segmenting out your comments into concerns. And then you know kind of implementation. Practical implementation issues, I think, could be very helpful. You know, because there are Wi, there are widespread policy implications of this potential legislative change. But then there are also numerous numerous, just practical implementation issues. So I think that's, you know, one way to approach it. I just wanted to offer that up as a suggestion, and and we, of course, at Fifa will be providing you with our draft comments to help you formulate your comments, because I think that's one of the things that we could do to help. Sort of bring some context to this whole conversation. So thank you, Michael for for allowing me to say that.	CIFA - 4/29/2024
No. 6 - The clawback of funds for any reason must be ruled out, projects at times fail to construction, and then below the 10% to 12% there must an always minimum, you cannot do this effort without staff, and that staff cannot be cut if our Federals do not appropriate in any given year.	CIFA - 4/29/2024
Is EPA intending to support states managing CDS if those states aren't meeting current EPA metrics for SRF programs?	CIFA - 4/29/2024
6- Why isn't EPA using its TA, or asking for more TA for earmarks?	CIFA - 4/29/2024
It could be nice to hide the amount awarded to the community prior to procurement process so as to keep the process as honest as possible. "A pending award has been granted to your community, pending.."?	CIFA - 4/29/2024
Q6 - Apparently, some of the projects in earmarks were authorized, but are not eligible for the SRF program, so how we can legally distribute and administer those funds will be a challenge.	CIFA - 4/29/2024
If the state is not meeting current program performance metrics established by EPA, that state should not be allowed to manage CDS.	CIFA - 4/29/2024

Topic 6: Considerations not mentioned above that should be reflected in the establishment and authorization for state implementation of Community Grants Projects.	
Input Received	Listening Session
Sometimes earmarked projects are not ready to go. They take longer to get off the ground, implement and complete. This is counter to the need to obligate in a timely way. Competing mandates.	CIFA - 4/29/2024
Q6: The existence of Community Grants hurt SRF programs.	CIFA - 4/29/2024
Q6: Fully fund SRFs and find an alternate funding source for CDS.	CIFA - 4/29/2024
Q6-Projects take time to develop. Simply giving a project funding doesn't mean it will be completed within a certain time. Some small systems cannot do anything until they receive 100% funding. Therefore, they sit on the awards until they can get everything together to actually start design/construction. Funding a project should be thought out with partners to make sure the funds are utilized timely and effectively.	CIFA - 4/29/2024
Q6- Hard to get our arms around managing earmarks without knowing what all the issues are. There is a reason(s) earmarks are not getting out the door.	CIFA - 4/29/2024
Q6 - the establishment and authorization should lie with a federal agency to manage and oversee these grants.	CIFA - 4/29/2024
All earmark projects should be SRF eligible and ready to proceed	CIFA - 4/29/2024
Increased EPA emphasis on Timely and Expedient Use and IUP "Report Card" at a time of unprecedented BIL funding is a huge undertaking while at the same time being asked to manage Community Grants.	CIFA - 4/29/2024
Q6- Must untether CDS funding from SRF funding.	CIFA - 4/29/2024
I would echo PERSON's comments. Those issues with the selections and funding of CDS make any SRF involvement challenging when not able to assure recipients are aware of all aspects before receiving a CDS earmark.	CIFA - 4/29/2024
Require congress to select projects that are already fundable under the state SRF program.	CIFA - 4/29/2024
Q6: These CDS projects are awarded at the federal level with not state input, and SRFs should not be burdened with managing these arbitrarily awarded projects. Again, CDS should not be funded at the expense of SRF capitalization funds.	CIFA - 4/29/2024

Topic 6: Considerations not mentioned above that should be reflected in the establishment and authorization for state implementation of Community Grants Projects.	
Input Received	Listening Session
The timing is really bad with BIL, creating new funding programs (EC and LSLR), emphasis on timely and expeditious use, on top of ARPA funding that has a hard December 2026 expenditure deadline.	CIFA - 4/29/2024
Agree with comment about timely and expeditious and BIL implementation -- we have our hands full. Hard to see how this is a net gain for state communities if the earmarks are working at cross purposes and competing for attention and resources with SRFs	CIFA - 4/29/2024
Unless ARPA expenditure deadline is extended by Congress, ARPA will have to take priority. CDS would be last.	CIFA - 4/29/2024
EPA is under pressure by congress for failing to timely administer earmarks. What would prevent States from receiving the same type of pressure?	CIFA - 4/29/2024
Administering earmarks will make "timely and exp. use" of SRF funds worse.	CIFA - 4/29/2024
Just wondering if EPA has distributed some of the previously awarded Community Grant funds? We have not heard updates in my state.	CIFA - 4/29/2024
Does EPA have suggestions/solutions other than states should administer the earmarks?	CIFA - 4/29/2024
Good question above. Is EPA also being asked to consider other options beyond looking at the states to administer CDS?	CIFA - 4/29/2024
A lack of state capacity to administer the earmarks make many of these questions moot.	CIFA - 4/29/2024

National Governors Association
Listening Session 5/7/2024

Topic 1: State interest in implementing all or some Community grants projects identified in your state.

Feedback:

when we talk about admin set us aside to help states- are we at the point to say whether that would also come out of SRF or would that be a separate grant that would not take away from the SRF funds?

important If admin funds are provided for this effort, taking it from SRF allotments will not be helpful.

Topic 2: Congress has appropriated \$26.6 million for EPA to administer the Community Grants projects which represents 0.7% of the available funding. State required administrative funds to opt into any aspect of implementation of any Community Grants projects.

Feedback:

My state would be hesitant to take this one. Our current CWSRF is operated in a different department than our DWSRF. Additional resources would be needed to take on this work especially given that these are grants and not loans. The effort needed to ensure due diligence is performed, funds are not comingled, meeting federal regulations would be significant. The staffing needed would include administrative, engineering, and financial staff. There are a lot more hurdles and unknowns than what we would see as benefits at this date.

I hope our comments will frame what is happening in the SRF in the bigger picture. These work arounds present a threat to the program and means of project funding that are long standing.

I think that we agree with remarks that Commenter 1 made. States are reticent to take on these projects in general- we are medium sized state in terms of resources and our current CWSRF program is managed in different agency than DWSRF agency so when we think about capacity to administer grants, then we would need additional resources to administer these grants. Especially since these are grants and not loans, there is a lot of work just in order financially, to ensure financial integrity to ensure these funds are managed with due diligence and with EPA requirements in mind. Lots of work to ensure that these funds are not comingled and meeting federal crosscutter requirements, hard to estimate what these levels of resources would be. Back of envelope but hard because fractional parts of accounting staff, engineers, etc. but because this is unpredictable, this is hard to think about how we would manage this in thoughtful way and to create the systems needed to administer this in appropriate way. Currently too many unknowns and hurdles to this than benefit to the state

echo some of what has already been said. Not going to get out in front of brother and sister states. But what will say to this group but would hopefully that our comments could frame what is going on with SRF in bigger picture this is not sustainable. We are creating through these workarounds something that is not authorized with statute/standing.

Topic 3: Aside from resources, the incentives, limitations, and/or requirements, needed for your state to elect to implement Community Grants projects.

Examples for consideration:

Intended Use Plan (IUP) inclusion

SRF co-funding

Projects that meet affordability criteria

Acceptance of SERP in lieu of NEPA

Feedback:

I could definitely see/forecast concerns of state DNR(?) administering congressional directed project that would not have been eligible under state IUP. I could see questions and concerns from other projects, complicating scenarios in the future, explain process that DNR would have to turn away that would not have been eligible in the IUP. I can see that IUP inclusion being valuable to this to aid in this.

Topic 4: Other considerations not mentioned earlier to be reflected in the establishment of authorization for State implementation of Community Grants projects.

Feedback:

challenging things about feedback is this process is a little chicken and egg cause you all are looking for input on what to do but there isn't process for states to think about how to implement. The tenor of questions indicate that EPA is thinking about efficiencies and synergies with state programs and I appreciate that but also thinking about some of these things- we are making some assumptions about what is needed and that is what is fueling some of our hesitancy around a circumstance where we would need to figure out bang for buck on this type of effort. So because there are so many aspects around federal requirements and financial management, then states have local community knowledge that may be helpful but challenge that we in our communities are excited about these grant opportunity but may not understand fully the strings attached with all of these grants there are a lot of complicated pieces this that would make us hesitant as to what it would/could look like but it is all very speculative.

to carry forward commenter 2 thoughts, we manage tribal program and incentive was 2 percent funds that could be used to offset employee costs and stuff. Currently we are at full capacity with BIL funding so additional funds to offset cost is not really an incentive at this point. An incentive would be relaxing some of federal requirements that come with grants that make it easier to implement and if those relaxed requirements could carry over to SRF, then that could be a good incentive to take this on. All programs are pretty much tapped out so additional funding is not necessarily an incentive.

National Tribal Water Council
Session 4/16/2024

Topic 1: Given the nature of the Federal-Tribal relationship, EPA wants to confirm that Tribal recipients would opt to continue direct EPA implementation management of Community Grants, rather than state implementation. Would Tribal recipients prefer that EPA draft and recommend legislative language that ensures that Community Grants to Tribes would continue to be directly implemented by EPA?

Feedback:

Yes. A tribal representative said that her tribe and state tend to have conflict, once the state becomes involved.

Another tribe agreed - they do not wish to work with the state.

Another tribe confirmed as well to continue working with EPA as they do not wish to interact with the state.

An individual shared that his tribe has no capacity and his community really struggles to apply for these grants as the project needs are vast. He asked for support in standing up the application and with the grant writing.

A gentleman said he is waiting for answers on his requests in using SAM.gov as his community struggles with this complicated system. He echoed that his tribe won't work with the state as they do not have a strong relationship. He asked to leave the state out of this program for their tribal grants.

Another tribe said they do not want the state coming onto their reservation and making any decisions on how to implement tribal projects.

Topic 2: Due to the binding legislative language that enables Community Grants, only the specifically named recipient can be awarded the grant award. In one instance, a Tribal Community Grant also allowed for the option of funding the project through an interagency agreement with the Indian Health Service (IHS). Would tribal recipients prefer this option be available in all cases?

Feedback:

One tribal nation commented that IHS took admin out of their grants prior when IHS managed a previous grant. She said that she does NOT support tranfering the funds to IHS to manage their grants.

Another gentleman said that he would like IHS to handle his grants. He would appreciate IHS coming onboard.

Appendix B – Written Input Received

Please see Appendix B PDF for more information.

From: [Jenkins, Charles \[DEP\]](#)
To: [CommunityGrantsHQ](#)
Cc: [Gardner, Patricia \[DEP\]](#); [LaTourette, Shawn \[DEP\]](#); [Charles.Jenkins](#)
Subject: Invitation to April 30 ECOS-EPA Listening Session on Congressionally Directed Spending Project Management
Date: Thursday, May 9, 2024 10:10:39 AM
Attachments: [4.30 ECOS EPA Listening Session on Earmarks.pdf](#)

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Good morning,

Representatives of the New Jersey Department of Environmental Protection and the New Jersey Water Bank attended the April 30th ECOS-EPA listening session and offer the attached comments on the Congressionally Directed Funding process.

Best regards,

Charles
Charles Jenkins, Assistant Director
Municipal Finance & Construction Element
Division of Water Quality
NJDEP

Community Grants Projects: State Implementation

Background

Within 90 Days of Enactment of the Consolidated Appropriations Act, 2024:

EPA is to provide a report (by June 7, 2024) that is inclusive of a detailed legislative structure to allow States to implement and manage Community Project Funding/Congressionally Directed Spending grants, including the following elements:

- Allow States to apply or elect to manage a project or projects, including where recipients of Community Project Funding/Congressionally Directed Spending projects may opt-out of State management;
- Align the requirements of the grants managed by the States with those that apply to SRF loans; and
- An administrative funding set-aside for States to utilize when they elect to manage projects.

Immediately: Consult and Engage

EPA is directed to immediately begin consulting with the States and Tribes on this proposal, solicit their feedback, and EPA is strongly encouraged to incorporate State and Tribal feedback into its report and legislative proposal.

Topics for Stakeholder Discussion

Is your state SRF program interested in implementing all or some of the Community Grants projects identified in your state? Yes, or no?

The New Jersey Water Bank would be interested in implementing Community Grants projects that are anticipated to receive additional SRF funding to cover project costs since the overall financing process will be more efficient if one entity manages the projects.

1. What factors would be taken into consideration when deciding which projects and/or parts of projects your state SRF program would implement? Please describe, including identifying any select activities your state might elect to focus on. Examples are below.
 - Example Implementation Model A: States apply for and receive a single grant award with underlying projects for all or some of the identified projects.
 - Overall project management for all or select identified CDS projects.
 - Awarding subgrants (i.e., “forgiven loans”) for projects/communities.
 - Ensure SERP completion and state and local procurement compliance.
 - Determine cost share waiver based on State affordability criteria and/or disadvantaged community definition.
 - Standard EPA/federal administrative grant management (budget, workplan, reporting, etc.)

If the grant requirements can be aligned with SRF requirements, Model A may be attractive if the selected projects are seeking SRF co-funding. A critical factor would be a change in EPA policy to allow the SERP to fulfill both Federal and SRF environmental review requirements. Earmarks could become a project category in the IUPs, with the grant awarded as PF at long-term loan conversion. Earmarks require a local match, and that match cannot be sourced from Federal funds but rather must be State appropriation or loan repayment funds. The Intended Use Plans would identify that Earmark projects will not be eligible for SRF Principal Forgiveness resulting in a combined funding package that would exceed Principal Forgiveness available to non-earmark projects.

- Example Implementation Model B: States apply for and receive a single grant award to conduct certain management and oversight activities for all or some of the identified projects while

manages direct grants to recipients. Activities may include:

- Project inspections (annual and/or as needed)
- Review of bid solicitation and contract documents
- Review and/or approval of plans and specifications, architectural/engineering (A/E) agreements, recipient procurement systems, payment requests, and/or change orders.
- Audit resolution support
- NEPA compliance assistance
- Standard EPA/federal administrative grant management (budget, workplan, reporting, etc.)

The NJ Water Bank does not support Model B due to the increased need to coordinate project management details with EPA.

During the period from FY 22 through FY 24, Congress has appropriated \$3.7 billion to 2,220 water infrastructure projects. Congress has also appropriated \$13.3 million in FY 23 and \$13.3 million in FY 24 in funding for EPA to administer the Community Grants projects. The administration funding is available for salaries, expenses, and contract support services to implement, administer and oversee Community Grants. The administrative resources provided represent 0.7 percent of the Community Grants project funding or roughly \$12,000 for each Community Grants project (the project lifecycle can be 3 to 5 years on average).

What would the estimated resource needs be to adequately implement some or all of the Community Grants projects within your state? Estimates in terms of percentage of administrative costs compared to total project funding or in terms of average administrative costs per project would be most helpful to informing potential legislative language. Are there any other considerations or limitations that should be recognized?

In addition to the annual 4% administrative set-aside allowed under the annual SRF capitalization grants, the NJ Water Bank financing includes a 2% DEP fee to cover the Department's costs for project reviews, construction oversight, payments management, and general administration tasks from the initial application through construction completion and conversion to the long-term loan. The \$12,000 per project administrative allowance cited in the paragraph above is inadequate to cover DEP costs. The NJ Water Bank's agreement to implement earmarks would be dependent on a reassessment of the administrative funding provided.

For comparison, under the previous water earmark program, 3% of the project funding was reserved for construction management and oversight only by states (no other activities, and no funds were available to EPA for grant administration).

2. Aside from resources, are there any incentives, limitations, and/or requirements, that would be needed for your state SRF program to elect to implement Community Grants projects? If so, please describe.

Examples provided below:

- Intended Use Plan (IUP) inclusion
- SRF co-funding
- Projects that meet affordability criteria
- Acceptance of SERP in lieu of NEPA

All four examples are required for the NJ Water Bank to elect to implement the Community Grants projects as this would result in a project management process that is consistent with and leverages the State SRF process.

3. Are there considerations related to impacts of State implementation of Community Grants projects, b SRF programs, that should be considered? If so, please describe.

The NJ Water Bank would elect to only assume implementation of projects funded with Community Grants that will be co-funded with SRF funds. Community Grant projects must have active SRF applications currently under review by the NJ Water Bank.

Are there other considerations not mentioned above that should be reflected in the establishment authorization for state implementation of Community Grants Projects? If so, please

The NJ Water Bank is concerned that Community Grants projects will receive priority emphasis regardless of project need, IUP and Priority Ranking System criteria, State priorities and recipient community status (disadvantaged, etc.). The NJ Water Bank finances projects on a readiness to proceed basis. Some earmark projects may be in the early stages of development, require Technical Assistance, and take one or more years to advance to construction.

From: [Marvin Cole-Chaney](mailto:Marvin.Cole-Chaney)
To: CommunityGrantsHQ
Cc: events@cifanet.org
Subject: Comments on States' Involvement with Earmarks
Date: Monday, May 13, 2024 10:51:03 AM

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EPA Staff,

Thank you for the opportunity to provide stakeholder feedback on the report to Congress regarding states' participation in administering Community Project Funding/Congressionally Directed Spending grants. Speaking on behalf of the Texas Water Development Board, the Texas state agency tasked with administering the Clean and Drinking Water State Revolving Funds, we are not interested in implementing all or some of the Community Grants projects.

The TWDB has been administering the base programs and the additional projects that were funded through the Infrastructure Investment and Jobs Act (IIJA) with essentially the same number of staff the agency had prior to the award of the first IIJA grants to the state. As you have recommended in our latest Program Evaluation Report, we continue to work towards filling vacancies, thereby allowing for an efficient administration of the grant funds awarded through the State Revolving Fund programs. We are unable to handle additional project oversight responsibilities even with an additional allocation of administrative funding.

We look forward to an opportunity to review the draft report to Congress on this matter once it has been finalized.

Regards,

Marvin Cole-Chaney

Director, Program Administration & Reporting

Texas Water Development Board

marvin.cole-chaney@twdb.texas.gov

512.463.8750

From: [Fellmeth, Kailyn N. \(TRE\)](#)
To: [CommunityGrantsHQ](#)
Cc: [sperez@tre.state.ma.us](#); [Pinaud, Maria \(DEP\)](#); [nkeenan@tre.state.ma.us](#)
Subject: MCWT Response to State Implementation of Community Grants Projects
Date: Thursday, May 16, 2024 10:41:39 AM
Attachments: [MCWT Response to State Implementation of Community Grants Projects.pdf](#)

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Good Morning,

I hope this email finds you well. Please see attached the letter outlining the Massachusetts Clean Water Trust's response to the state implementation of Community Grants projects.

Sincerely,

Kailyn Fellmeth (She/her/hers)

Program Associate

Office of the State Treasurer and Receiver General

The Massachusetts Clean Water Trust

One Center Plaza – Suite 430

Boston, MA 02108

Cell: 617-620-2820 Office: 617-367-9333 ext. 580

Kailyn.N.Fellmeth@tre.state.ma.us

Dr. Andrew Sawyers, Director
Office of Wastewater Management
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: State Implementation of Community Grants Projects

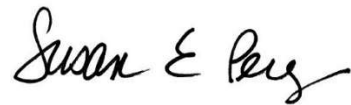
Dear Dr. Sawyers,

Massachusetts appreciates the opportunity to provide input on the proposal for states to assist with implementing the Environmental Protection Agency's (EPA) Community Grants projects. We are committed to utilizing all federal water infrastructure dollars available to the state as efficiently as possible, and, while we would rather the Community Grants not be made available from the State Revolving Fund (SRF) base grant, we recognize the need to ensure the projects receive the funding that Congress appropriated. We are currently co-funding a number of Community Grants projects in close coordination with EPA Region 1 and would be interested in managing the implementation of some of the Community Grants projects in Massachusetts.

Massachusetts would be willing to manage the Community Grants for projects that appear on our Intended Use Plans (IUPs). To simplify the process, funding could be provided through the base grant application, which could include a carve-out for the Community Grants. We would follow our normal grant/loan operations, environmental review and permitting, and the communities could be treated as subrecipients, with the Community Grants providing principal forgiveness on the SRF loan. In most cases, the Community Grants provide grant funds for only a portion of the total project costs, which means the communities need to find additional financing sources to construct the project. Moving the grants to the SRF would streamline and simplify the application, implementation, and reporting process for communities since they would follow one well-established and well-known SRF loan application process rather than multiple application processes, including the EPA grant process.

Massachusetts understands that this is a complicated process and additional considerations or issues may arise when combining the SRF and the Community Grants funding. We are available for further discussions as this process continues and look forward to continuing our close partnerships with EPA Headquarters and the excellent staff at EPA Region 1.

Sincerely,



Susan E. Perez
Executive Director
Massachusetts Clean Water Trust

From: [McFarling, Tina](#)
To: [CommunityGrantsHQ](#)
Subject: SD DANR Comments on State Managing Congressional Earmarks
Date: Thursday, May 16, 2024 3:42:30 PM
Attachments: [DANR Delegation of Management of Congressional Earmark Letter.pdf](#)

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Please see the attached comment letter from the South Dakota Department of Agriculture and Natural Resources. We appreciate the opportunity to comment on this topic.

Tina McFarling, P.E.
Program Administrator
Environmental Funding Program
Department of Agriculture and Natural Resources
605.773.4216
danr.sd.gov

**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

May 15, 2024

Dr. Andrew Sawyers, Director
Office of Wastewater Management
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: South Dakota Department of Agriculture and Natural Resources (DANR) comments on the Delegation of Management of Congressional Earmarks to States

Dear Dr. Sawyers:

Thank you for the opportunity to comment on the prospect of states administering and managing projects funded through congressionally directed spending. DANR is concerned about state's ability to manage these projects and the potential impacts to the long-term sustainability of the Clean Water and Drinking Water State Revolving Fund (SRF) programs. Attached are DANR's specific comments.

As outlined in our comments, DANR believes it is not feasible for South Dakota to administer and manage congressionally directed spending projects. If these earmark funded projects continue, Congress must address their negative impacts to the state SRF programs and require federal agencies to manage these projects that have not previously been the state's responsibility.

Thank you for your consideration. If you have questions, please contact Andy Bruels at Andrew.bruels@state.sd.us or Tina McFarling at tina.mcfarling@state.sd.us with DANR's Environmental Funding Program.

Sincerely,

Hunter Roberts
Secretary

Attachment

South Dakota Department of Agriculture and Natural Resources
Comments on Congressionally Directed Spending (CDS)
May 15, 2024

Concerns about state management of congressional earmarks:

- Over the last three years, Congress has diverted \$3.73 billion in federal funding from the SRF capitalization grants to pay for congressional earmarks. All projects funded by the SRF capitalization grants, including congressional earmarks, must comply with federal mandates imposed by Congress over the last decade.
 - Compliance with these federal mandates can be complex, confusing, time-consuming, and costly and noncompliance can jeopardize federal funding for the project. Congressionally imposed federal mandates on SRF funded projects may be the root cause of perceived delays in awarding congressional earmarks.
 - Congress must be willing to hold communities accountable for complying with the same federal requirements as SRF funded projects, especially those in small, rural, and economically disadvantaged communities that have no other financing alternatives.
 - Transferring management of congressional earmarks from the U.S. Environmental Protection Agency to states won't solve this underlying problem.
- Transferring management of congressional earmarks to states will likely delay the award of federal funding. Because congressional earmarks are grants with different rules than subsidized loans, state SRFs are unlikely to be able to seamlessly absorb congressional earmarks into their existing workflows.
- Congressional earmarks are funded without thorough vetting by the SRFs. Additionally, because small communities often lack the professional capacity to manage a capital improvement projects, verification of compliance is typically more costly and labor intensive.
- Because of the increased workload due to federal mandates on all projects and uncertain annual funding, states would likely need a minimum amount, such as \$100,000, per congressional earmark, to manage the process from application to award to disbursement.
 - Even with federal funding to address increased workload, states face significant issues with recruiting and retaining staff. States may also face hiring restrictions from their own state process. Funding that cannot be regularly budgeted for is not able to be managed.

Recommendations to eliminate issues:

- End the use of the SRF capitalization grants to fund congressional earmarks.
- Fully fund the Clean Water and Drinking Water SRFs to congressionally authorizations levels of \$3.25 billion, each, for fiscal year 2025, which may alleviate the impact of continued diversions of annual federal funding.

- Waive federal requirements on a subset of SRF projects and congressional earmarks, such as for communities with fewer than 3,500 people, to lessen funding burdens.
- Require public reporting of the details of congressional earmarks including full project descriptions and the status of applications.
 - Neither Congress nor EPA has provided detailed information about congressional earmarks to states.
 - At a minimum, states need enough information to determine whether a project is eligible under their SRFs, whether a project will be able to secure the required permits, whether a project provides a sustainable solution, and whether a project is financially viable.

Conclusion:

South Dakota is not able to commit to managing projects funded through earmarks for the reasons outlined above. DANR believes Congress should fully fund the existing state SRF programs and allow the existing process and procedures to assure the funds are used to assist those systems most in need due to financial or environmental compliance needs.

From: [Julia Anastasio](#)
To: [CommunityGrantsHQ](#)
Cc: [Deane, Michael](#)
Subject: ACWA Feedback on Community Projects/ Congressionally Directed Spending
Date: Friday, May 17, 2024 10:04:14 AM
Attachments: [Community Projects Recommendations Final.pdf](#)

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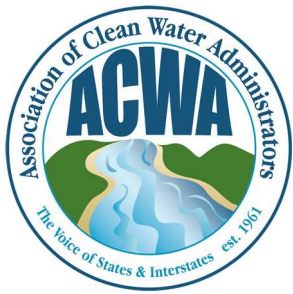
Please see ACWA's feedback on community projects to help inform EPA's report to Congress.

We look forward to continuing our discussions with you.

Julia

Julia Anastasio

Executive Director & General Counsel
Association of Clean Water Administrators
202.756.0600 (direct)
202.746.8017 (mobile)



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

From: [Freeman, Jeff \(PFA\)](#)
To: [CommunityGrantsHQ](#)
Subject: Potential State Administration of Congressional Earmarks
Date: Friday, May 17, 2024 12:43:15 PM
Attachments: [MPFA Comments on State Administration of Congressional Earmarks.pdf](#)

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The Minnesota Public Facilities Authority (MPFA) manages the Clean Water and Drinking Water State Revolving Funds. The MPFA is not interested in taking on the administration of congressional earmark projects. Additionally, the MPFA sees the explosion of congressional earmarks for water infrastructure projects as extremely inefficient and detrimental to the nation's ability to sustainably address its long-term water infrastructure needs.

Please see the attached letter for more detail regarding our concerns.

Jeff Freeman | Executive Director
Minnesota Public Facilities Authority
1st National Bank Building, 332 Minnesota St., Suite W820, St. Paul MN 55101
Direct: 651-259-7465
jeff.freeman@state.mn.us
www.mn.gov/pfa





May 17, 2024

Minnesota comments to EPA on the question of possible state administration of Congressional earmark projects

The Minnesota Public Facilities Authority (MPFA) manages the Clean Water and Drinking Water State Revolving Funds. The MPFA is not interested in administering congressional earmark projects. Additionally, the MPFA sees the explosion of congressional earmarks for water infrastructure projects as extremely inefficient and detrimental to the nation's ability to sustainably address its long-term water infrastructure needs.

For more specific detail, please see the following.

A. Congressional earmarks divert annual federal funding from state priority projects, which disrupts the stability and reliability of the SRFs.

Over the last three years, Congress has diverted \$3.73 billion in annual federal funding from state projects to pay for congressional earmarks. Many SRFs believe they need to focus exclusively on managing and mitigating the impact of these funding cuts to maintain the effectiveness and sustainability of the SRFs.

For example, cuts to annual federal funding requires the SRFs to continually:

- Modify policies and procedures to manage the project pipeline, such as capping the per project amount of loans, reducing eligibility for principal forgiveness/grants, and revising scoring for prioritizing projects.
- Develop and implement strategies to effectively communicate these programmatic changes to prospective borrowers, state lawmakers and policymakers, stakeholders and the public.
- Manage expectations for borrowers who have been diligently working through the SRF process but may not receive funding when anticipated.
- Work with borrowers to revise their construction plans to allow for incremental funding, such as breaking projects into phases.
- Identify alternative sources of funding for borrowers, primarily small, rural and economically disadvantaged communities with limited options in the municipal market or from private lenders.
- Rework strategies for leveraging to meet the need for increased funding while controlling costs.

B. Adequately funding management of congressional earmarks will result in even deeper cuts to federal funding for state priority projects.

In 2024, Congress diverted \$13.3 million in annual federal funding from the SRFs to pay for administration of congressional earmarks, exacerbating significant cuts to federal funding for state priority projects. Providing even minimal funding for administration of congressional earmarks will likely come at the expense of federal funding for state priority projects, which is a serious concern for the SRFs.

C. In addition to diverting funding, congressional earmarks will divert state staff from state priority projects.

SRFs are concerned that potential pressure to expedite awards for congressional earmarks will force states to divert state staff from state priority projects. Diverting state staff, which are already stretched thin, will delay projects in small, rural and economically challenged communities which require more time, attention and support from state staff.

Moreover, states don't have the flexibility or funding to hire, train and retain staff to manage an increased workload, especially one that can fluctuate significantly from year to year.

D. Congressional earmarks are “jumping to the front of the line” for federal funding without adequate vetting.

SRFs are concerned that congressional earmarks are receiving federal funding before being vetted for basic elements of project planning and development, such as engineering, environmental impacts, and permitting. Additionally, congressional earmarks haven't been vetted for their ability to comply with a myriad of federal mandates, such as Build America, Buy America Act (BABAA) which significantly impacts overall design and construction of water infrastructure projects.

E. Managing congressional earmarks will require the development of an entirely new state program.

Because congressional earmarks are grants with different rules, requirements and schedules than SRF subsidized loans, these projects can't be seamlessly absorbed into most SRF programs. Instead, many states will need to develop a new state grant program to manage congressional earmarks; some states will need to enact new state laws to establish a new grant program. Establishing new grant programs could take up to two years; optimizing new grant programs could take another three to four years.

F. Requiring SRFs to manage congressional earmarks will further erode the SRF state-federal partnership, which is a hallmark of the SRFs.

Congress established the SRFs as a partnership with states. Congress provides a broad federal framework to achieve national objectives for safe and clean water but allows states to customize their individual programs to more efficiently and effectively achieve

those objectives in communities with diverse environmental and affordability challenges.

Using the SRF capitalization grants to pay for congressional earmarks undermines the state prioritization process, which is a cornerstone of the programs. Continuing to displace state priority projects with congressional earmarks further diminishes the partnership.

G. EPA will use congressional earmarks to continue to federalize the SRFs.

In recent years, EPA has used “guidance,” which it considers as having the weight of federal law and regulation, and “best practices,” which are developed exclusively by agency staff, to compel SRFs to change policies, procedures and operations.

For example, EPA recently issued a policy that puts pressure on high-performing SRFs to overcommit funding or risk losing their capitalization grant. SRFs are concerned that EPA will apply this policy to congressional earmarks, which would jeopardize annual federal funding for state priority projects.

H. Congressional earmarks are fundamentally transforming the SRFs from a sustainable, state-run subsidized loan program into a massive, one-size-fits-all federal grant program.

Many SRFs are concerned that congressional earmarks will continue to undermine the value of SRF subsidized loans, which can save as much as 75% in interest payments.

Some SRFs believe Congress is incrementally ending these fiscally responsible loan programs, which have successfully recycled billions in federal funding to finance water infrastructure projects that may never have built had the SRFs been established as a traditional federal grant program.

From: [Marcum, Matthew R - DNR](#)
To: [CommunityGrantsHQ](#)
Cc: rebecca.scott@wisconsin.gov
Subject: WI SRF Comments on State Management of Earmarks
Date: Friday, May 17, 2024 2:50:41 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

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On behalf of the Wisconsin Clean Water and Drinking Water State Revolving Programs, thank you for the opportunity to submit the following comments in regards to the state-level management of Congressional Directed Spending (CDS) grant projects.

1. Is your state SRF program interested in implementing all or some of the Community Grants projects identified in your state? Yes, or no?
 - No, the Wisconsin SRF program is not interested in implementing any of the Community Grant projects.

2. What factors would be taken into consideration when deciding which projects and/or parts of projects your state SRF program would implement? Please describe, including any identifying any select activities your state might elect to focus on. Examples are below.
 - Example Implementation Model A: States apply for and receive a single grant award with underlying projects for all or some of the identified projects.
 - Overall project management for all or select identified CDS projects.
 - Awarding subgrants (i.e., “forgiven loans”) for projects/communities.
 - Ensure SERP completion and state and local procurement compliance.
 - Determine cost share waiver based on State affordability criteria and/or disadvantaged community definition.
 - Standard EPA/federal administrative grant management (budget, workplan, reporting, etc.)
 - Example Implementation Model B: States apply for and receive a single grant award to conduct certain management and oversight activities for all or some of the identified projects while EPA manages direct grants to recipients. Activities may include:
 - Project inspections (annual and/or as needed)
 - Review of bid solicitation and contract documents
 - Review and/or approval of plans and specifications, architectural/engineering (A/E) agreements, recipient procurement systems, payment requests, and/or change orders.
 - Audit resolution support
 - NEPA compliance assistance
 - Standard EPA/federal administrative grant management (budget, workplan, reporting, etc.)
 - The Wisconsin SRF program does not have the staffing capacity to take on implementation or management of CDS projects as described in either Example A or B. Staff capacity is maxed out managing our current SRF project workload. Despite the financial impacts of the CDS

program on state SRFs, the volume of state SRF applications has increased dramatically in Wisconsin. While we have been fortunate to add additional staff to help manage BIL-related workload, we have no additional vacancies left to dedicate to the CDS program. Creating new positions within the state is unlikely and, at best, a lengthy process. This is further complicated by the uncertain future of CDS funding (i.e. the state will not create new permanent positions for what is hopefully a short-term program).

CDS projects exist outside of the typical state SRF funding process. As such, there are a number of complicating factors, some of which include:

- CDS projects doesn't exist within Wisconsin's project management database, adding the project would be complicated and burdensome for CDS recipients and state staff.
- Project reviews and budget tracking for CDS projects will be different than normal SRF projects and would likely require the development of a separate tracking database/system.
- Project eligibility between the CDS and state SRF may be different in some instances (i.e. some projects eligible for CDS may not be eligible for funding through the state SRRF). State staff may have no experience managing these types of projects.

3. During the period from FY 22 through FY 24, Congress has appropriated \$3.7 billion to 2220 water infrastructure projects. Congress has also appropriated \$13.3 million in FY 23 and \$13.3 million in FY 24 in funding for EPA to administer the Community Grants projects. The administration funding is available for salaries, expenses, and contract support services to implement, administer and oversee Community Grants. The administrative resources provided represent 0.7 percent of the Community Grants project funding or roughly \$12,000 for each Community Grants project (the project lifecycle can be 3 to 5 years on average).

What would the estimated resource needs to adequately implement some or all or of the Community Grants projects within your state? Estimates in terms of percentage of administrative costs compared to total project funding or in terms of average administrative costs per project would be most helpful to informing potential legislative language. Are there any other considerations or limitations that should be recognized?

For comparison, under the previous water earmark program, 3% of the project funding was reserved for construction management and oversight only by states (no other activities, and no funds were available to EPA for grant administration).

- The Wisconsin SRF program does not have a realistic means of estimating the cost of administering CDS projects at the state level. That said, the figures presented in the question do seem low. At the state level, hypothetical CDS administration costs are indeterminate, however it is expected that significant time and expense would be necessary for the development of the CDS grant implementation and management structure. Additionally, many of the CDS projects seem to be demonstrating that they are not ready to move forward, or there is a lack of understanding of the CDS funding requirements, or the recipients lack the technical capacity to meet program requirements. As such, it is anticipated that CDS projects would require more staff administrative effort (time) than traditional SRF projects that are generally well developed, well supported, and familiar with the state SRF funding process.

4. Aside from resources, are there any incentives, limitations, and/or requirements, that would be needed for your state SRF program to elect to implement Community Grants projects? If so, please

describe. Examples provided below:

- o Intended Use Plan (IUP) inclusion
- o SRF co-funding
- o Projects that meet affordability criteria
- o Acceptance of SERP in lieu of NEPA
- No. The primary issue is that CDS is a stand-alone grant program that exists outside of the standard state-SRF management system. Short of requiring the projects to go through the normal state SRF process, or developing an entirely new state-level grant program, there's no good way to efficiently shoehorn CDS projects into the existing state SRF program.

5. Are there considerations related to impacts of State implementation of Community Grants projects, to SRF programs, that should be considered? If so, please describe.

- EPA should work to better understand the specifics of why individual CDS projects have not moved forward. Changing who administers the program (from EPA to the states) won't address the slowness if the problem is with the projects or the CDS requirements. If the problem is not with the projects but is instead with EPA's ability to manage the projects, then EPA should address what internal changes need to be made in order to improve the timeliness of issuing CDS awards.

Given state-level resource and hiring constraints, electing to manage CDS awards at the state level will inevitably pull staff time away from managing the SRF programs. Workload within the existing state SRF programs is already at historic highs and is stretching available staff time to the breaking point. Additionally managing the CDS program will only exacerbate this problem. Shifting a finite amount of resources (staff time) from the state SRF program to manage the CDS program is not a viable solution for either program.

6. Are there other considerations not mentioned above that should be reflected in the establishment and authorization for state implementation of Community Grants Projects? If so, please describe.

- In addition to the comments above, the Wisconsin SRF program shares many of the concerns expressed by CIFA in the forthcoming comment letter.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Matt Marcum

Environmental Loans Section Manager
 Wisconsin Department of Natural Resources
 Cell Phone: (608) 575-8825
MatthewR.Marcum@Wisconsin.gov



From: [Hale, Michael \(EFC\)](#)
To: [CommunityGrantsHQ](#)
Cc: [Coleman, Maureen \(EFC\)](#); [Cunningham, Máire \(EFC\)](#); [Westerman, Christine A \(HEALTH\)](#)
Subject: Community Grants Implementation
Date: Friday, May 17, 2024 3:19:21 PM
Attachments: [image001.png](#)
[Community Grants - State Implementation Topics for Discussion 5.15.pdf](#)

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Attached please find comments from NYS Environmental Facilities Corporation and the NYS Department of Health.

Michael Patrick Hale
Executive Vice President
he/him/his

NYS Environmental Facilities Corporation
625 Broadway, Albany, New York 12207-2997
518.402.6951 (p) | michael.hale@efc.ny.gov



Community Grants Projects: State Implementation

Background

Within 90 Days of Enactment of the Consolidated Appropriations Act, 2024:

EPA is to provide a report (by June 7, 2024) that is inclusive of a detailed legislative structure to allow States to implement and manage Community Project Funding/Congressionally Directed Spending grants, including the following elements:

- Allow States to apply or elect to manage a project or projects, including where recipients of Community Project Funding/Congressionally Directed Spending projects may opt-out of State management;
- Align the requirements of the grants managed by the States with those that apply to SRF loans; and
- An administrative funding set-aside for States to utilize when they elect to manage projects.

Immediately: Consult and Engage

EPA is directed to immediately begin consulting with the States and Tribes on this proposal, solicit their feedback, and EPA is strongly encouraged to incorporate State and Tribal feedback into its report and legislative proposal.

Topics for Stakeholder Discussion

1. Is your state SRF program interested in implementing all or some of the Community Grants projects identified in your state? Yes, or no?

Answer: Yes, New York State would be interested in administering some Community Grants projects. However, New York must be able to select the specific projects it would administer. The decision would be based on several factors, including at a minimum that the projects are currently listed on the Drinking Water or Clean Water State Revolving Fund Intended Use Plan (IUP) Priority Project List (PPL) with a score reachable for subsidized financing and that the same requirements that apply to the SRFs apply to earmarks, e.g., SERP rather than NEPA.

2. What factors would be taken into consideration when deciding which projects and/or parts of projects your state SRF program would implement? Please describe, including identifying any select activities your state might elect to focus on. Examples are below.
 - Example Implementation Model A: States apply for and receive a single grant award with underlying projects for all or some of the identified projects.
 - Overall project management for all or select identified CDS projects.
 - Awarding subgrants (i.e., “forgiven loans”) for projects/communities.
 - Ensure SERP completion and state and local procurement compliance.
 - Determine cost share waiver based on State affordability criteria and/or disadvantaged community definition.
 - Standard EPA/federal administrative grant management (budget, workplan, reporting, etc.)
 - Example Implementation Model B: States apply for and receive a single grant award to conduct certain management and oversight activities for all or some of the identified projects while EPA manages direct grants to recipients. Activities may include:
 - Project inspections (annual and/or as needed)
 - Review of bid solicitation and contract documents

- Review and/or approval of plans and specifications, architectural/engineering (A/E) agreements, recipient procurement systems, payment requests, and/or change orders.
- Audit resolution support
- NEPA compliance assistance
- Standard EPA/federal administrative grant management (budget, workplan, reporting, etc.)

Answer: Example Implementation Model A is consistent with how New York anticipates that it would administer community Grants. New York would decide which Community Program projects to implement based primarily on whether the project will be co-funded with SRF funds. If the project is listed on the PPL and the State will be funding the project with the SRF, the State anticipates it would be most efficient for the State to administer the Community Program grant as well. This would only stand, however, if the recipient did not need to complete an application through grants.gov, need only comply with SRF requirements that are aligned with existing SRF requirements, and there would be no additional reporting requirements for the Community Grant funds. There would need to be flexibility to amend the capitalization grant application to add or remove projects.

3. During the period from FY 22 through FY 24, Congress has appropriated \$3.7 billion to 2220 water infrastructure projects. Congress has also appropriated \$13.3 million in FY 23 and \$13.3 million in FY 24 in funding for EPA to administer the Community Grants projects. The administration funding is available for salaries, expenses, and contract support services to implement, administer and oversee Community Grants. The administrative resources provided represent 0.7 percent of the Community Grants project funding or roughly \$12,000 for each Community Grants project (the project lifecycle can be 3 to 5 years on average).

What would the estimated resource needs to adequately implement some or all or of the Community Grants projects within your state? Estimates in terms of percentage of administrative costs compared to total project funding or in terms of average administrative costs per project would be most helpful to informing potential legislative language. Are there any other considerations or limitations that should be recognized?

For comparison, under the previous water earmark program, 3% of the project funding was reserved for construction management and oversight only by states (no other activities, and no funds were available to EPA for grant administration).

Answer: For clean water projects, if the above criteria were met, New York would not need additional administrative funds because the State would already be working with the recipient on SRF financing and there would only be incremental costs associated with administering the Community Grants.

For the drinking water program, New York State would request additional set asides in the amount of 14% to make up for set asides lost with the significant reduction in the base grant.

4. Aside from resources, are there any incentives, limitations, and/or requirements, that would be needed for your state SRF program to elect to implement Community Grants projects? If so, please describe. Examples provided below:
 - Intended Use Plan (IUP) inclusion

- SRF co-funding
- Projects that meet affordability criteria
- Acceptance of SERP in lieu of NEPA
- The state can count the loan portion of the funding towards equivalency.

Answer: All of the above would be needed at a minimum for New York State to elect to administer these projects.

5. Are there considerations related to impacts of State implementation of Community Grants projects, to SRF programs, that should be considered? If so, please describe.

Answer: N/A

6. Are there other considerations not mentioned above that should be reflected in the establishment and authorization for state implementation of Community Grants Projects? If so, please describe.

Answer: As stated in prior answers, New York State will only elect to administer earmarks for projects that are currently listed on the IUP, have SRF co-funding, and meet New York State's affordability criteria. Additionally, New York State would require confirmation from the EPA that the SERP process will be accepted in lieu of NEPA and that the loan portion of funding can be counted towards the equivalency.

From: [Deirdre Finn](#)
To: [CommunityGrantsHQ](#)
Subject: CIFA Letter
Date: Friday, May 17, 2024 3:47:43 PM
Attachments: [image001.png](#)
[2024.05.17 CIFA Letter about State Management of Congressional Earmarks.pdf](#)

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Thank you for the opportunity to offer comments and recommendations.

Please feel free to contact me with questions.

Thanks, Deirdre

Deirdre Finn
Executive Director
Council of Infrastructure Financing Authorities (CIFA)
www.cifanet.org
(850) 445-9619



The Council of Infrastructure Financing Authorities is a national not-for-profit organization that represents the Clean Water and Drinking Water State Revolving Funds, the nation's premier programs for funding water infrastructure that protects public health and the environment.

May 17, 2024

Dr. Andrew Sawyers, Director
Office of Wastewater Management
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: Delegation of Management of Congressional Earmarks to States

Dear Dr. Sawyers:

Thank you for offering the opportunity to provide written comments, on behalf of the Clean Water and Drinking Water State Revolving Funds (SRFs), about the prospect of states administering and managing congressional earmarks. The SRFs consider this initial engagement to be the beginning of a conversation with Congress about the future of the SRF state-federal partnerships and the role of congressional earmarks in the nation's long-term strategy to fund water infrastructure that protects public health and the environment.

Being able to review and provide feedback on EPA's draft proposal would be a constructive next step in this important conversation. To that end, CIFA, on behalf of the SRFs, asks the U.S. Environmental Protection Agency (EPA) to share its proposed "legislative structure to allow states to implement and manage Community Project Funding/Congressionally Directed Spending grants" with states before submitting its report to Congress.

Allowing states to review and provide feedback on the draft proposal will further facilitate the conversation and help inform Congress, EPA and Governors how to approach management of congressional earmarks.

Thank you for your consideration.

Sincerely,

Angela Knecht
CIFA President

cc: U.S. Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies
U.S. House of Representatives Subcommittee on Interior, Environment, and Related Agencies

About CIFA

CIFA is a national not-for-profit organization that represents the Clean Water and Drinking Water State Revolving Funds (SRFs), the nation's premier programs for funding water infrastructure that protects public health and the environment.

Board of Directors, Officers:

- President: Angela Knecht, Florida Department of Environmental Protection
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- EPA Region 9: Joe Karkoski, California State Water Resources Control Board
- EPA Region 10: Maryanna Peavey, Idaho Department of Environmental Quality
- Affiliate: Neil Flanagan, Jefferies

I. ASSESSMENT OF PERCEIVED DELAYS IN AWARDING CONGRESSIONAL EARMARKS

Over the last three years, Congress has diverted \$3.73 billion in federal funding from the SRF capitalization grants to pay for congressional earmarks. All projects funded by the SRF capitalization grants, including congressional earmarks, must comply with the myriad of federal mandates imposed by Congress over the last decade.¹

Today, federal mandates control various aspects of planning and construction of SRF water infrastructure projects, including selection of engineers, wages for construction workers, materials used in construction, and technologies used for treatment. Compliance with these federal mandates can be complex, confusing, time-consuming, and costly. Noncompliance can jeopardize needed federal funding for a project.

Congressionally imposed federal mandates on SRF funded projects may be the root cause of perceived delays in awarding congressional earmarks. Compliance with federal mandates is a process that takes time, technical assistance, and, often, paid professional expertise – all of which increases the cost of the water infrastructure project. Moreover, Congress must also recognize that communities need time to learn how to apply for federal funding and to work through the process and paperwork to comply with their congressionally imposed federal mandates.

If compliance with federal mandates is the root cause of perceived delays, transferring management of congressional earmarks from the U.S. Environmental Protection Agency (EPA) to states is unlikely to solve the underlying problem.

II. SRF CONCERNS ABOUT STATE MANAGEMENT OF CONGRESSIONAL EARMARKS

A. Maintaining the stability and reliability of the subsidized loan programs is the priority of the SRFs.

Over the last three years, Congress has diverted \$3.73 billion in annual federal funding from state projects to pay for congressional earmarks. Managing and mitigating the impact of these funding cuts is the SRFs' priority.

To keep projects on time, on track and on budget, the SRFs must continually:

- Modify policies and procedures to manage the project pipeline, such as capping the per project amount of loans, reducing eligibility for principal forgiveness/grants, and revising scoring for prioritizing projects.
- Develop and implement strategies to effectively communicate these programmatic changes to prospective borrowers, state lawmakers and policymakers, stakeholders and the public.
- Manage expectations for borrowers who have been diligently working through the SRF process but may not receive funding when anticipated.

¹ Appendix A

- Work with borrowers to revise their construction plans to allow for incremental funding, such as breaking projects into phases.
- Identify alternative sources of funding for borrowers, primarily small, rural and economically disadvantaged communities with limited options in the municipal market or from private lenders.
- Rework strategies for leveraging to meet the need for increased funding while controlling costs.

Because of this increased workload, many SRFs don't have the bandwidth to manage a new program for congressional earmarks. However, some SRFs may have an interest in managing projects co-funded with an SRF subsidized loan if the process is aligned to their program.

B. Providing adequate funding management of congressional earmarks will result in even deeper cuts to annual federal funding for SRF state priority projects.

In 2024, Congress diverted \$13.3 million in annual federal funding from the SRFs to pay for administration of congressional earmarks, exacerbating significant cuts to annual federal funding for state priority projects. Providing even minimal funding for administration of congressional earmarks will likely come at the expense of federal funding for state priority projects, which is a serious concern for the SRFs.

C. Lack of adequate funding will place a greater financial burden on the SRFs' administrative budgets.

To date, federal funding for management of congressional earmarks doesn't adequately cover the cost of administration and compliance during construction of a water infrastructure project which could be three to five years. Without adequate federal funding, SRFs may have to divert administrative funding from state priority projects to pay for administration of congressional earmarks.

D. In addition to diverting funding, congressional earmarks will likely divert state staff from state priority projects.

SRFs are concerned that pressure to expedite awards for congressional earmarks will force states to divert state staff from state priority projects. Diverting state staff, which are already stretched thin, will delay projects, especially in small, rural and economically challenged communities which require more time, attention and support from state staff.

Moreover, states don't have the flexibility or funding to hire, train and retain staff to manage an increased workload, especially one that can fluctuate significantly from year to year.

E. Congressional earmarks are "jumping to the front of the line" for federal funding without adequate vetting.

SRFs are concerned that congressional earmarks are receiving federal funding before being vetted for basic elements of project planning and development, such as engineering, environmental impacts, and permitting. Additionally, congressional earmarks haven't been vetted for their ability to comply with a myriad of federal

mandates, such as Build America, Buy America Act (BABAA) which significantly impacts overall design and construction of water infrastructure projects.

F. Managing congressional earmarks will require the development of an entirely new state program.

Because congressional earmarks are grants with different rules, requirements and schedules than SRF subsidized loans, these projects can't be seamlessly absorbed into most SRF programs. Instead, many states will need to develop a new state grant program to manage congressional earmarks; some states will need to enact new state laws to establish a new grant program. Establishing a new grant program could take up to two years; optimizing a new grant program could take another three to four years.

G. Requiring SRFs to manage congressional earmarks will further erode the SRF state-federal partnership, which is a hallmark of the SRFs.

Congress established the SRFs as a partnership with states. Congress provides a broad federal framework to achieve national objectives for safe and clean water but allows states to customize their individual programs to more efficiently and effectively achieve those objectives in communities with diverse environmental and affordability challenges.

Using the SRF capitalization grants to pay for congressional earmarks undermines the state prioritization process, which is a cornerstone of the programs. Continuing to displace state priority projects with congressional earmarks further diminishes this partnership.

H. EPA will use congressional earmarks to continue to federalize the SRFs.

In recent years, EPA has used "guidance," which it considers as having the weight of federal law and regulation, and "best practices," which are developed exclusively by agency staff, to compel SRFs to change policies, procedures and operations.

For example, EPA recently issued a policy that puts pressure on high-performing SRFs to overcommit funding or risk losing their capitalization grant. SRFs are concerned that EPA will apply this policy to congressional earmarks, which would further jeopardize annual federal funding for the SRFs.

I. Congressional earmarks are fundamentally transforming the SRFs from a sustainable, state-run subsidized loan program into a massive, one-size-fits-all federal grant program.

Many SRFs are concerned that congressional earmarks will continue to undermine the value of SRF subsidized loans, which can save as much as 75% in interest payments. The increase in federal mandates and diversion of funding to congressional earmarks (grants) is incrementally eroding the effectiveness of these fiscally responsible loan programs, which have successfully recycled billions in federal funding to finance water infrastructure projects that may never have built had the SRFs been established as a traditional federal grant program.

III. GENERAL RECOMMENDATIONS

A. Establish reasonable and realistic expectations for awarding congressional earmarks.

Because Congress uses the SRF capitalization grant to pay for congressional earmarks, these projects must comply with the myriad of federal mandates that Congress has imposed on SRF projects over the last decade. Compliance takes time. Additionally, like SRF loans, funding isn't provided up front; congressional earmarks reimburse eligible expenses, which can also impact the timeline for awarding federal funds.

Agreeing on the expectations for awards of congressional earmarks is critically important, regardless of whether EPA or states manage the process.

B. Improve transparency about the projects.

Comprehensive public reporting of the details of congressional earmarks, including full project descriptions, the status of applications, and outreach efforts to date, is essential for both project management and accountability.

To date, neither Congress nor EPA has provided detailed information about congressional earmarks to states. Without detailed information, Governors and State Legislatures will be unable to make informed decisions about accepting responsibility for managing one or more congressional earmarks in their state.

At a minimum, states need enough information to determine whether a project:

- Is eligible under their state program (congressional earmarks may be eligible under federal law but not eligible under a state program),
- Can be permitted,
- Provides a sustainable solution, and
- Is financially viable.

C. Improve transparency about obstacles.

Congress and EPA will also need to be more transparent about the known obstacles to awarding congressional earmarks. For example, Congress – without any public discussion or debate – waived federal mandates for competitive procurement for all congressional earmarks.² Unlike other federally funded projects, not one congressional earmark funded by the SRF capitalization grant over the last three years – nearly 2,000 projects – is required to competitively bid the goods and services used in their project.

Providing a clear and consistent process for waiving any federal mandate that presents an obstacle to the award of congressional earmarks, as well as SRF state priority projects, is essential for expediting awards.

² Consolidated Appropriations Act of 2024 ([H.R. 4366](#))

IV. RECOMMENDATIONS FOR EPA MANAGEMENT

A. Focus on improving the current management structure within EPA.

EPA provides managerial and programmatic oversight of 102 SRFs, which means the agency has the knowhow to efficiently and effectively administer a national program to manage congressional earmarks. Explaining how transferring management of congressional earmarks to states will improve the process is critically important.

B. Consolidate project management for congressional earmarks within EPA.

EPA currently manages congressional earmarks through the EPA Regions. However, congressional earmarks aren't evenly distributed across the EPA Regions. For example, Region 5 has more than six times the number of projects that Regions 7 and 8 have – 395 compared to 60 and 62 respectively.

Because of the extreme variability in the number of projects across the Regions and from year to year (Table A), EPA is unlikely to develop expertise within all the Regions to consistently improve the process.

Table A: Number of congressional earmarks by EPA Region.

EPA Region	Number of States	2022 Projects	2023 Projects	2024 Projects	Total Projects	Percent by Region
1	6	66	90	98	254	11%
2	2	57	76	118	251	11%
3	5	67	71	115	253	11%
4	7	58	105	146	309	14%
5	6	82	114	199	395	18%
6	5	32	57	81	170	8%
7	4	8	16	36	60	3%
8	6	10	20	32	62	3%
9	4	60	105	132	297	13%
10	4	44	61	65	170	8%
		484	715	1022	2221	

Consolidating project management of all congressional projects at Headquarters or within one or two EPA Regions may:

- Allow staff to be dedicated solely to management of congressional projects.
- Allow streamlining of operations and more efficient management of workflow.
- Expedite decision-making and determinations for compliance, such as with American Iron and Steel and Build America, Buy America.

V. CONSIDERATIONS FOR SRF MANAGEMENT

A. Allow SRFs to select the congressional earmarks to manage.

Very few SRFs have expressed an interest in managing all congressional earmarks. However, some SRFs have expressed an interest in managing congressional earmarks

that are co-funded with an SRF subsidized loan. Taking an all-or-nothing approach for managing congressional earmarks will be a deterrent for SRF involvement in the process.

B. Require congressional earmarks managed by the SRFs to follow the SRF process.

Requiring congressional earmarks to follow the state SRF process will allow projects to be more seamlessly absorbed into each unique state programs, such as:

- Use the state application process, instead of applying to SAM.gov for a unique entity identifier (UEI) then applying to grant.gov for the funding.
- Allow use of principal forgiveness, as well as grants, to reduce paperwork and processes.

C. Establish a simple process for SRFs to access federal funding to pay for congressional earmarks.

Developing a simple process for SRFs to easily access federal funding is essential for states to manage congressional earmarks. Burdensome processes and excessive paperwork will deter SRFs from managing congressional earmarks, even those that are co-funded.

D. Adequately fund management of congressional earmarks.

Ensuring compliance with the myriad of federal requirements for congressional earmarks and SRF projects is a costly and labor-intensive effort. The cost of compliance can vary by project and doesn't correlate to the amount of funding.

Previously, Congress provided SRFs with 3% of the amount of the congressional earmark to perform narrowly defined responsibilities, such as conduct site inspections. However, an administrative set-aside of this amount may not be adequate to perform these limited duties now.

States can use up to 4% of annual federal funding for SRF program administration. However, many states receive state funding or must charge fees to cover the full cost of SRF program administration and project management.

Covering the full cost of managing a congressional earmark through completion of construction would require a minimum of \$90,000 and up to 9% of the amount of the congressional earmark. Administration of congressional earmarks should be funded in addition to the SRFs, not deducted from the SRF capitalization grants.

VI. RECOMMENDATIONS FOR RECIPIENTS

A. Establish a deadline for recipients to apply for congressional earmarks.

Under the current structure, applicants can take as long as they want to apply for a congressional earmark. Requiring recipients to apply within six months of receiving a congressional earmark will accelerate the process from the start.

B. Fund technical assistance for congressional earmarks.

Recipients of congressional earmarks may need technical assistance to navigate the paperwork and processes to comply with federal mandates. Providing funding for professional services to assist with compliance may be necessary to award congressional earmarks.

Again, technical assistance for congressional earmarks should be funded in addition to the SRFs, not at the expense of state priority projects.

VII. RECOMMENDATIONS FOR STREAMLINING**A. Ending use of the SRF capitalization grants to fund congressional earmarks will streamline compliance.**

Using a different source of funding for congressional earmarks will eliminate SRF federal mandates, which would reduce the paperwork and process to demonstrate compliance before an award can be made.

B. Waive federal mandates on SRF projects and congressional earmarks in small and rural communities.

SRF projects and congressional earmarks in communities with fewer than 10,000 people often lack the professional capacity to ensure compliance with federal mandates and require more intensive support than projects in larger communities. Waiving federal mandates for these projects could expedite the award of funding.

C. Reduce duplication of environmental reviews.

According to EPA's guidance, recipients of congressional earmarks are required to comply with both National Environmental Protection Act (NEPA) and State Environmental Review Process (SERP), which is a NEPA-equivalent process used by the SRFs for more than three decades to evaluate the environmental impacts of projects. Requiring both environmental reviews is duplicative and consumes strained staff time.

Allowing EPA to accept the State Environmental Review Process (SERP) in lieu of the National Environmental Protection Act (NEPA) will streamline the process while maintaining protection for the environment.

Appendix A: Congressional Federal Mandates

- Davis Bacon: Mandates federal prevailing wages – individually established for each of the nation’s 3,143 counties – are paid to construction workers.
- America Iron and Steel (AIS): Mandates procurement and use of iron and steel made in America.
- Building America, Buy America Act (BABAA): Mandates use of iron, steel, construction materials and manufactured products that meet procurement requirements for made in America.
- Cost-Benefit Analysis (Green Certification): Mandates certification that the project maximizes water and energy conservation, regardless of the size or type of the project.
- Fiscal Sustainability Plan: Mandates an inventory of assets, a funding plan to maintain assets, and a certification that the plan maximizes water and energy conservation, regardless of the size or type of the project.
- Engineering Services: Mandates the use of the federal procurement process to select engineers and engineering firms.

From: [Deirdre Finn](#)
To: [CommunityGrantsHQ](#)
Subject: Anonymous Comments
Date: Friday, May 17, 2024 3:56:41 PM
Attachments: [image001.png](#)

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Comments on behalf of an SRF Project Manager, manager of set-aside program for the Drinking Water SRF

Water suppliers and operators of wastewater treatment plants are facing new treatment and supply challenges owing to climate change, including but not limited to increased runoff of pollutants and sediment, decreased water availability from drought and saltwater intrusion, adverse impacts to water quality from carbon deposition, and resilience against inundative storms.

Our communities need MORE funding to respond to these challenges, and they need more financial incentives to incorporate water conservation and climate change adaptation & mitigation measures into their operations, instead of pursuing business-as-usual. SRF programs across the Country need more prescriptive guidance from Congress on the importance of prioritizing water conservation measures and climate change adaptation and mitigation projects and plans. The Green Project Reserve requirement is an excellent example of this type of leadership and prescriptive guidance.

The Green Project Reserve should serve as a foundation that should be *expanded* to incentivize pro-active conservation measures; assessments of the local impacts of climate change on water supply and treatment requirements; climate change adaptation and mitigation projects; and investments in green infrastructure to buttress declining riparian habitats, which provide support for wildlife facing their own challenges from habitat loss and climate change, and which also support quality of life in our communities. Efforts to abandon the Green Project Reserve requirement are extremely short-sighted, and will only be a disservice to our communities, our environment, and our natural resource levels in the future.

Efforts to deplete the funding available to base SRF programs, and neglecting the expansion of the Green Project Reserve requirement, will only create a race-to-the-bottom situation as communities strip their projects down to the bare minimum in order to compete for dwindling pots of federal support. Congressional leadership is NEEDED to preserve the base program, and EXPAND the resources that our communities need to respond to 21st century challenges.



The Council of Infrastructure Financing Authorities is a national not-for-profit organization that represents the Clean Water and Drinking Water State Revolving Funds, the nation's premier programs for funding water infrastructure that protects public health and the environment.

From: [Deirdre Finn](#)
To: [CommunityGrantsHQ](#)
Subject: Anonymous Comments
Date: Friday, May 17, 2024 3:58:14 PM
Attachments: [image001.png](#)

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Anonymous

- a. Both SRFs
- b. On behalf of an individual
- c. Program management

I share many of the same concerns expressed by CIFA.



The Council of Infrastructure Financing Authorities is a national not-for-profit organization that represents the Clean Water and Drinking Water State Revolving Funds, the nation's premier programs for funding water infrastructure that protects public health and the environment.

From: [Pringle, Jamelya](mailto:Pringle.Jamelya)
To: CommunityGrantsHQ
Subject: FW: ECOS comments on Community Project Funding/Congressionally Directed Spending Project Management
Date: Friday, May 17, 2024 4:34:48 PM
Attachments: [ECOS CDS comments to EPA final 17 May 2024.pdf](#)

From: Deane, Michael <Deane.Michael@epa.gov>
Sent: Friday, May 17, 2024 2:33 PM
To: Pringle, Jamelya <Pringle.Jamelya@epa.gov>; Goralczyk, Michael (he/him/his) <Goralczyk.Michael@epa.gov>; Thorp, Julia <Thorp.Julia@epa.gov>; Kennedy, Margaret (she/her/hers) <Kennedy.Margaret@epa.gov>; Anderson, William <Anderson.William@epa.gov>
Subject: Fwd: ECOS comments on Community Project Funding/Congressionally Directed Spending Project Management

FYI

Michael Deane
Chief, Clean Water State Revolving Fund
U.S. Environmental Protection Agency

(202) 564-8918

Deane.Michael@epa.gov

Begin forwarded message:

From: Beth Graves <bgraves@ecos.org>
Date: May 17, 2024 at 4:46:48 PM EDT
To: "Best-Wong, Benita (she/her/hers)" <Best-Wong.Benita@epa.gov>, "Sawyers, Andrew" <Sawyers.Andrew@epa.gov>
Cc: "Deane, Michael" <Deane.Michael@epa.gov>, Ben Grumbles <bgrumbles@ecos.org>, Beth Graves <bgraves@ecos.org>
Subject: **ECOS comments on Community Project Funding/Congressionally Directed Spending Project Management**

Caution: This email originated from outside EPA, please exercise additional caution when deciding whether to open attachments or click on provided links.

Benita and Andrew,

Please find attached ECOS comments on Community Project Funding/Congressionally Directed Spending Project Management.

Thank you for your outreach to state agencies and associations including ECOS to

gather state input before submitting your required report to Congress on CPF/CDS projects.

Beth

--

Beth Graves (*she/her*)

Executive Project Manager

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**ECOS Comments to U.S. EPA on Community Project Funding/
Congressionally Directed Spending Project Management
May 17, 2024**

State and territorial environmental agency leaders through the Environmental Council of the States (ECOS) offer the following comments regarding U.S. Environmental Protection Agency (EPA) management of Community Project Funding/Congressionally Directed Spending (CPF/CDS) projects. ECOS members have very limited interest in taking over the management of the projects given the number of concerns and unanswered questions regarding state capacity, responsibility, and impacts on the State Revolving Funds (SRFs).

In the FY24 budget enactment for EPA, Congress directed EPA in the [explanatory statement](#) to develop a report “proposing efficient solutions for substantially increasing the Agency's effectiveness and timeliness in administering Community Project Funding and Congressionally Directed Spending projects.” EPA was further directed to provide “a detailed legislative structure to allow States to implement and manage Community Project Funding/Congressionally Directed Spending grants” including for recipients of Community Project Funding/Congressionally Directed Spending (CPF/CDS) projects to opt out of state management.

In March 2021, the American Rescue Plan Act (ARPA) of 2021 was signed into law. Recognizing the significant needs of water systems, some Governors and state Legislatures directed portions of their ARPA funding for water system investments, with recipients required to obligate funds by December 31, 2024, and to expend obligated funds by December 31, 2026, typically with the SRFs administering these funds and state environmental agencies providing permitting and other related services.

In November 2021, the Infrastructure Investment and Jobs Act (IIJA) was signed into law, providing \$38.4B of water funding designated for the Clean Water and Drinking Water SRFs to address clean water and drinking water systems, lead service line replacement, emerging contaminants, and support for disadvantaged communities. Significant funding increases are provided annually for five years, with SRFs administering these funds and state environmental agencies providing permitting and other related services for IIJA SRF, transportation, and other infrastructure projects.

In FY2022, after having last funded Special Appropriations Act Projects (SAAP) ten years prior, Congress began funding CPF/CDS – with funding taken directly from the Clean Water (CW) and Drinking Water (DW) SRFs – a departure from the previous SAAP funding process. In FY24, Congress provided \$13.3M for administration of CPF/CDS projects - also from the SRFs account. The amount of SRF CPF/CDS in FY22 was \$842M, in FY23 was \$1.47B, and in FY24 was \$1.42B – now totaling approximately half of the SRF funds which, prior to 2021, had averaged \$2.79B annually.

The CW and DW SRFs are two of the nation's most successful and sustainable environmental programs. The SRFs are critical to addressing the increasing demands on and risks to the nation's drinking water and clean water supplies, including preparing for cybersecurity needs. Cuts to the SRFs diminish states' capacity to meet current and growing environmental needs and harm the state-federal partnership that is crucial to protect public health and the environment throughout the country.

States greatly appreciate congressional support, including financial assistance, for communities to upgrade and modernize their drinking water, wastewater, stormwater, and reuse systems.

As directed by Congress, SRFs must maintain the long-term financial integrity of their loan programs in perpetuity. SRFs seek to carefully manage assets, meet required state match of federal funds, review proposed projects, and consider affordability factors including necessary operation and maintenance of new assets while realizing a sustainable rate of return.

Understanding this context, ECOS sought input on CPF/CDS project management and a potential state role. States are concerned with managing any portion of CPF/CDS projects that were funded at the expense of the SRFs and that come with various risks since not being reviewed and prioritized through a state's Intended Use Plan (IUP). States shared **very limited interest** in taking on any portion of management tasks of CPF/CDS from EPA given the number of unresolved questions and significant concerns regarding state staff capacity, responsibility, and impacts to the SRFs.

State concerns with CPF/CDS project management included:

- **Inability of states to absorb workload impacts.** Through ARPA and IIJA, SRFs have been asked to increase their capacity to fund projects while continuing to meet EPA SRF oversight requests, respond to Justice40 reporting requirements, increase grants or principal forgiveness loans to 49% of specified IIJA funding, consider climate resilience, and provide funding to address perfluoroalkyl and polyfluoroalkyl substances (PFAS) consistent with new EPA regulations. This is also a very competitive hiring climate for engineers and other skilled staff. Some states may not use or may not have the ability to use administrative funding to hire additional staff.
- **Enhanced EPA oversight.** EPA's January 31, 2024, memo to regional offices, "Maximizing Water Quality and Public Health Benefits by Ensuring Expedient and Timely Use of All State Revolving Fund Resources," establishes a new emphasis, if not new policy, in regard to EPA's intent that SRFs use all funds within one year of receipt and related to project reimbursement. These may result in unintended consequences. SRF programs deemed lacking have the potential for "enhanced engagement" from the Region, including mandatory consequences that could include withholding of an SRF's capitalization grants. SRFs could be evaluated on consistent disbursements that require a consistent

- flow of funding, including annual federal funding, yet the past few years have shown significant variability. Separately, EPA has established a Strategic Plan goal to increase the amount of non-federal dollars leveraged through SRFs. CPF/CDS diminishes the leveraging power of SRFs to issue bonds to increase water infrastructure funding. IJA requires an increase in the amount of grants/principal forgiveness by SRFs. SRFs must navigate these perhaps competing objectives, depending upon how EPA approaches this metric. How would SRFs be evaluated on timely use of funds if a CPF/CDS project were not construction ready? Does the opportunity to receive CPF/CDS funding, potentially with no match, discourage communities from seeking SRF funding, undermining the SRFs? Would CPF/CDS recipients have a deadline to apply for funding before it reverts to the U.S. Treasury or to SRFs?
- **Unpredictable CPF/CDS funding year-to-year.** Individual SRFs managers must budget and plan for their annual workforce needs. The number of CPF/CDS projects by state is only known following timely congressional budget enactment, or later if delayed due to continuing resolutions. Communities may also opt out of state management adding to SRF budgeting uncertainties. Hiring qualified engineers is difficult and may be impossible to justify for temporary funding, and incorrect expectations may lead to layoffs if funding does not materialize.
 - **Uncertain liabilities.** If states were to assume some CPF/CDS management for projects that were not analyzed and had not completed public review, it is uncertain how SRFs would respond to or address challenges if CPF/CDS communities failed to initiate a project, failed to meet project goals, were not permissible, did not meet procurement compliance/Build America Buy America Act (BABAA) requirement compliance/American Iron and Steel requirement compliance, had insufficient funding to proceed, had project completion delays, incurred Clean Water Act or Safe Drinking Water Act violations, or experienced other challenges. Would states be penalized in EPA's accountability metrics for CPF/CDS projects that were delayed? What if both a state and EPA were processing payments? Who would approve of change orders?
 - **Technical corrections.** States have no direct relationship with congressional committees to address technical corrections or other adjustments that may be required to manage CPF/CDS projects.
 - **Cost share waivers.** EPA has established a process to waive the required 20% match for CPF/CDS projects. Would EPA continue to make these determinations? What if a state and federal definition of a disadvantaged community differ and were to impact a waiver determination?
 - **BABAA waivers.** As a federal agency, EPA leads the development of and facilitates review and approval of waivers of federal requirements. States have no authority to undertake this work. As current SRF projects face more BABAA requirements than EPA infrastructure funding projects, how would this inconsistency be addressed?

- **State Environmental Review Process (SERP)/National Environmental Policy Act (NEPA).** EPA manages NEPA reviews and may use pertinent SERP information. There has not been alignment of SERP and NEPA reviews broadly, which may result in CPF/CDS projects having to complete both processes, creating additional and duplicative workload with an uncertain process for review and approval if a SRF were to lead this task.
- **Insufficient administration funding.** Currently, an estimated 0.7% of administrative resources are provided for FY24 CPF/CDS project management, an insufficient amount for this purpose. In the last few years, Congress increased the amount of CW SRF administrative funding to 4% set-aside, recognizing historic 2% administration levels were too low to sufficiently support vetting projects for a state's IUP. CPF/CDS projects may be less developed, reflect partial funding, and require more administrative support and oversight, so a percentage amount and a minimum level of support per project may be necessary, yet states continue to urge Congress to fund CPF/CDS projects and their administration separate from the SRFs.
- **Early, meaningful engagement.** The FY24 budget was enacted in mid-March with a report to Congress directed within 90 days. The ECOS listening session with EPA on CDS management was held on April 30 with similar listening sessions held with other state media and infrastructure associations. EPA has managed CPF/CDS funds for more than two years. States have limited insights into what challenges, even broadly, EPA is experiencing with obligating funding commitments. What are the EPA CPF/CDS project management lessons learned after two years? What are the CPF/CDS project management lessons learned in individual states? Regular, open, ongoing discussions would facilitate increased state-federal collaboration on EPA CPF/CDS management. Whether EPA manages one or all CPF/CDS projects, most CPF/CDS communities are within state or territorial boundaries, and more consistent increased early, meaningful engagement may benefit states, EPA, and communities. State-EPA regional office coordination is also beneficial when the community has already received SRF funding and is seeking to utilize multiple funding sources.
- **CPF/CDS Project Oversight.** As a federal agency, EPA has an obligation to respond to its Office of Inspector General reviews and recommendations and to the Government Accountability Office and Congressional Research Service, whereas states have no direct relationship with these offices and could be overwhelmed by or find requests confusing or difficult to respond to.
- **Inconsistency with state programs.** Some states are not allowed by statute to issue grants, and grants have more federal requirements. Some CPF/CDS projects may not be eligible under the state program with uncertain implications for SRFs. There may be other state-specific challenges, such as inconsistent state and federal affordability process or definitions.
- **Specified Tasks.** Under SAAP, some SRFs conducted site visits or submitted inspection reports to EPA, with the EPA regional office managing the project. This

is a small part of “management” of a CPF/CDS project. Some states may have a small number of projects in total or may consider CPF/CDS support following IIJA and ARPA timeframes and additional clarity. A limited number of states may be willing to partner with EPA on specific tasks, particularly if the community were already on a state’s IUP and had received an SRF award, with EPA retaining accountability for risks and audit reviews. Even then, specific tasks may still require some alignment of program compliance requirements.

ECOS appreciates the EPA Office of Water’s inclusive outreach to state agencies and associations and ECOS staff in gathering state input before submitting its required report to Congress on CPF/CDS projects.

From: [Lori Johnson](#)
To: [CommunityGrantsHQ](#)
Subject: Feedback on state's management of Congressional earmarks
Date: Friday, May 17, 2024 4:54:34 PM
Attachments: [image001.png](#)

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Thank you for the opportunity to provide feedback on this important topic.

The Oklahoma Water Resources Board (OWRB) does not believe that state's managing the earmarks will solve the problem that EPA has had with getting the funds awarded and disbursed. EPA has indicated the biggest hurdle in getting these funds awarded is that communities are not applying in a timely manner. Establishing timelines and deadlines applicants have to come in for their award will expedite awards. If they are unable to apply within the timeframe funding could be re-allotted back to the SRF's.

However, if the decision is made for states to manage these funds, OWRB has the structure in place to effectively manage this new program. If that is the case, OWRB would request that one single grant award be made with the identified projects being subrecipients of loan forgiveness and apply SRF processes, like SERP rather than NEPA, to the projects. If we are able to select, our first preference would be to only manage projects co-funded with the SRF.

OWRB will continue to advocate for fully funding the SRF's so these programs can revolve in perpetuity to meet future critical infrastructure needs.

Thanks,

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From: [Ellsworth, Michael L \(DOH\)](#)
To: [CommunityGrantsHQ](#)
Cc: [Sessions, Carrie \(GOV\)](#); [Pskowski, Samantha \(GOV\)](#); [Minor, Rose \(GOV\)](#); [Mena, Sharlett \(ECY\)](#); [McGowan, Vincent \(ECY\)](#); lauren.jenks@doh.wa.gov; [Myers, Holly R \(DOH\)](#); [Jernigan, Meghan \(DOH\)](#)
Subject: Opportunity for State Feedback
Date: Friday, May 17, 2024 5:34:18 PM
Attachments: [image001.png](#)
[image002.png](#)
[EPA_WA_Depts_Ecology_and_Health_State_Revolving_Fund_5_17_24.pdf](#)

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Team EPA, thank you very much for the opportunity to provide state feedback. Please find attached Washington State Department of Ecology and Health feedback for the written report to U.S. Congress. Best regards, Mike

Michael Ellsworth, JD, MPA

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STATE OF WASHINGTON

May 17, 2024

CommunitygrantsHQ@epa.gov

The Washington State Departments of Ecology (Ecology) and Health (WA-DOH) welcome the opportunity to provide state feedback for the U.S. Environmental Protection Agency's (EPA) written report to United States Congress as required by the [Interior, Environment, and Related Agencies Appropriations Act, 2024](#). Specifically, to provide feedback on a legislative structure to allow states to implement and manage Congressionally Directed Spending (CDS) grants for Clean Water and Drinking Water State Revolving Funds (SRF).

Ecology and WA-DOH do not support the idea of CDS grants because these grants are jeopardizing the health of the SRF program for the following reasons:

- CDS grants reduce capitalization and available forgivable principal funding that SRF prioritizes for disadvantaged communities.
- CDS grants create further inequities by providing grant funding to communities that would not meet Washington state's disadvantage community definition or affordability criteria and would not receive principal forgiveness under state directed programs.
- CDS grants circumvent the state's holistic approach to project prioritization and undermines SRF programs by creating a side channel for partial project funding with increased administrative burden.
- CDS grants cause delays in providing funding to projects that are ready to proceed. Projects earmarked for funding may not meet or state eligibility requirements; therefore, appropriations cannot be spent on these projects.

Ecology and WA-DOH recommend U.S. Congress fully fund the SRF programs at congressionally authorized levels to increase available resources that would be awarded effectively and efficiently through these well established and revered programs.

Although Ecology and WA-DOH are opposed to CDS grants for the reasons described above, any proposed legislative structure to continue CDS grants for SRF funds would need to include a mechanism for states to coordinate and support the congressional delegates and staff in their review and prioritization of proposed projects to help identify successful projects that align with SRF goals and could benefit from congressional funding without undermining the programmatic foundations. Administrative funding set-aside would be necessary for states to utilize when they elect to manage projects.

While community grants have been awarded to important projects within Washington state, EPA has struggled to actually provide these grants to the grantees. Some projects are not eligible under the SRF funding criteria or are not ready to proceed. Ecology and WA-DOH believe only a limited number of contracts have been executed for the 483 community grant projects with appropriations in federal fiscal year 2022.

For more information about the impact of earmarks please see the following:

The Council of Infrastructure Funding Agencies (CIFA) site with copies of letters/advocacy on this issue: [Federal Funding \(and Earmarks\) | CIFA \(cifanet.org\)](https://www.cifanet.org)

The Environmental Council of States (ECOS) has previously provided a letter, with the same messaging, which was signed by the Department of Ecology: [ce9ad4_4dddefb8bb514d1290b12bc6425075a1.pdf](#) ([cifanet.org](#))

A letter signed by 22 state governors with similar messaging to the CIFA and ECOS: [ce9ad4_b8d6346e6dec4434ab336adc2d73189d.pdf](#) ([cifanet.org](#))

Sincerely,



Holly R. Myers
Director, Office of Drinking Water
Environmental Public Health
Washington State Department of Health



Vince McGowan, PE
Water Quality Program Manager
Washington State Department of Ecology



cc: Sharlett Mena, Special Assistant to the Director, Washington State Department of Ecology
Michael L. Ellsworth, Federal Relations Director, WA-DOH
Lauren Jenks, Assistant Secretary, Environmental Public Health, WA-DOH
Meghan Jernigan, Federal Relations Deputy Director, WA_DOH

Appendix C – Detailed Grant Oversight Responsibilities

Implementation Structure Option A: Broad State Implementation (States and Non-Tribal Recipients)

State applies for and receives a single EPA grant award; recipient(s) agree to implement selected project under state’s award, rather than receive direct grant(s) from the EPA. State grant award includes water CPF/CDS project funding for all applicable projects as well as administrative funding in the amount of three percent of the total funding for water CPF/CDS projects for which management and oversight activities will be performed under the grant award.

Roles and Functions	
Implementation Option A: Broad State Implementation (States and Non-Tribal Recipients)	
States	<ul style="list-style-type: none"> • Submit EPA grant applications for state-selected projects and associated funding amounts identified in the Appropriations Acts as well as funding for administrative resources totaling three percent of the total amount of funding appropriated for each Congressionally identified project included in the state’s grant application; EPA grants awarded to states under the Community Grants Program. • Award subgrants to eligible subrecipients for identified projects selected by states and agreed upon by recipients. • Ensure SERP completion if no EPA NEPA determination has been issued. • For each state grant, state may elect to either defer to the EPA’s cost share waiver criteria and decision process, or waive the statutory cost share requirement based on criteria used by the state in determining additional subsidization <ul style="list-style-type: none"> ○ CWSRF: applicable state affordability criteria ○ DWSRF: disadvantaged community definition • Ensure recipient procurement compliance with state and/or local requirements <ul style="list-style-type: none"> ○ Review bid evaluation and contract award ○ Review and approve change orders and claims ○ Review and approve architectural/engineering (A/E) sub-agreements ○ Review and approve grantee's procurement systems ○ Review and approve plans and specifications • Conduct biddability and constructability reviews • Provide assistance: resolution of bid protests • Conduct pre-construction conferences • Building phase of projects: construction oversight inspections (annual and/or as needed) • Review project-specific invoices, prior to submission of payment requests to the EPA for state drawdown.

	<ul style="list-style-type: none"> • Certify that all grant requirements are fulfilled. • Review and approve certification that the project can meet the objectives for which it was planned, designed, and built. • Provide audit resolution assistance and response as necessary.
(Non-Tribal) Congressionally Identified Recipients	<ul style="list-style-type: none"> • Work with the EPA to receive any necessary Technical Corrections • Receive grants directly from states, implement projects identified in Appropriations Acts • Adhere to applicable requirements <ul style="list-style-type: none"> ○ BABA, AIS, the Davis Bacon Act, SERP ○ State and/or local procurement, including those related to state and/or local DBE, etc.
EPA	<ul style="list-style-type: none"> • Award grants under the Community Grants Program to states for state-selected projects and associated administrative funding (with agreement by Congressionally identified recipients) subject to federal requirements except where compliance would be based on state and/or local compliance, pending any changes to those requirements. • Ensure grant awards adhere to applicable requirements; implement Technical Corrections; implement cost share waivers where states opt to defer to EPA’s cost share waiver process.

Implementation Option B: State Implementation – Oversight Support (States and Non-Tribal Recipients)

State applies for and receives a single EPA grant award to conduct certain management and oversight activities, including those described in the table below, for select projects identified by the state, with concurrence from the recipient, while the EPA manages direct grants to recipients. Management and oversight activities to be selected by states with agreement by recipients. The management and oversight grants are funded with an administrative funding in the amount of up to three percent of the total water CPF/CDS projects for which management and oversight activities will be performed under the grant award.

Roles and Functions	
Implementation Option B: State Implementation – Oversight Support (States and Non-Tribal Recipients)	
States	<ul style="list-style-type: none"> • Submit EPA grant applications for state-selected management and oversight activities. • Conduct Project inspections (annual and/or as needed) • Review of bid solicitation and contract documents; review and/or approval of plans and specifications, architectural/engineering (A/E) agreements, recipient procurement systems, payment requests, and/or change orders. <ul style="list-style-type: none"> ○ Review bid evaluation and contract award ○ Review and/or approval of change orders and claims

	<ul style="list-style-type: none"> ○ Review and/or approval of architectural/engineering (A/E) sub-agreements ○ Review and/or approval of recipient’s procurement systems ○ Review and/or approval of recipient’s plans and specifications ● Conduct biddability and constructability reviews ● Provide assistance: resolution of bid protests ● Conduct pre-construction conferences ● Building phase of projects: construction oversight inspections (annual and/or as needed) ● Audit resolution support ● NEPA compliance assistance, environmental cross-cutter support
<p>Congressionally Identified Recipients</p>	<ul style="list-style-type: none"> ● Work with the EPA to receive any necessary Technical Corrections. ● Develop and submit grant applications to receive and manage direct awards. ● Develop and maintain internal controls, policies, and procedures necessary for federal grant recipients. ● Implement project according to the EPA-approved workplan and milestone schedule, reporting and recordkeeping, respond to audits as necessary. ● Adhere to applicable requirements including <ul style="list-style-type: none"> ○ BABA, AIS, the Davis Bacon Act, NEPA ○ State and/or local procurement, including those related to state and/or local DBE. (state and/or local procurement compliance would be applicable to water CPF/CDS projects administered by states, pending changes to requirements applicable to the projects such as those detailed in the Legislative Text & Statutory Authority section of this report).
<p>EPA</p>	<ul style="list-style-type: none"> ● Award grants under the Community Grants Program. ● Ensure grant awards adhere to applicable requirements, implement Technical Corrections and cost share waivers. ● Grants awarded to Congressionally identified recipients for projects identified in Appropriations Acts subject to all applicable federal requirements including BABA, AIS, the Davis Bacon Act, NEPA, federal procurement standards (including DBE). ● Grants awarded to states subject to all applicable federal requirements, however given the nature of the grant scope (project oversight for select activities), general grant requirements are implicated whereas requirements such as BABA, AIS, NEPA, etc., are not implicated.

Implementation Structure Option C: IHS and Tribal Recipients

IHS applies for and receives an Interagency Agreement (IA) with the EPA to conduct water CPF/CDS funding to implement select Tribal projects identified by IHS, with agreement by Tribal recipients.

Roles and Functions Implementation Option C: IHS and Tribal Recipients	
IHS	<ul style="list-style-type: none"> • Submit EPA IA applications for IHS-selected projects and associated funding amounts identified in Appropriations Acts. • EPA awards funds-out IA to IHS for select Tribal water CPF/CDS projects or provide funding for select Tribal water CPF/CDS projects through funds transfer.
(Tribal) Congressionally Identified Recipients	<ul style="list-style-type: none"> • Receive project implementation through IHS directly. • Adhere to applicable requirements, including: <ul style="list-style-type: none"> ○ BABA, AIS, the Davis Bacon Act, NEPA, federal procurement standards (including those related to Tribal DBE requirements).
EPA	<ul style="list-style-type: none"> • Award funds-out IA to IHS for select Tribal water CPF/CDS projects or provide funding to IHS for select Tribal water CPF/CDS projects to IHS through funds transfer; implement technical corrections. • Negotiate IHS IA awards with IHS to ensure adherence to applicable IA terms and conditions as described in the <i>Indian Health Manual</i>.