



Sent via ELECTRONIC MAIL to commentletters@waterboards.ca.gov

July 23, 2024

Courtney Tyler, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

**RE: ACWA and CMUA Comment Letter regarding Draft Intended Use Plans for the
Drinking Water State Revolving Fund Fiscal Year 2024 – 2025**

Dear Ms. Tyler:

The Association of California Water Agencies (ACWA) and the California Municipal Utilities Association (CMUA) appreciate the opportunity to provide comments to the State Water Resources Control Board (State Water Board) on the draft State Fiscal Year (SFY) 2024-25 Drinking Water State Revolving Fund (DWSRF) Intended Use Plan (IUP) with Supplemental IUPs released on June 24, 2024. ACWA represents over 470 local public water agencies that supply water for domestic, agricultural, and industrial uses to over 90 percent of California's population. CMUA represents over 60 public water agencies that supply water to 75 percent of Californians. We submit the following comments for the State Water Board's consideration related to the DWSRF IUP.

1. Support increase of Emerging Contaminants Funding to \$10 million per water system.

ACWA and CMUA support the proposed increase of emerging contaminant funding per water system being raised to \$10 million per public water system (PWS) to utilize SRF funding as our members are working their hardest to comply with the state's existing ambitious drinking water standards like the recent Hexavalent Chromium MCL, and as PFAS treatment efforts are underway. DWSRF is an essential resource that PWS rely upon to treat for emerging contaminants. It is essential to provide funding eligibility in amounts that enable PWS to meet increasing costs. As we have in the past¹, we also encourage the Division of Financial Assistance (DFA) to consider using a portion of

¹ [Joint ACWA/CMUA Comment Letter](#) submitted September 23, 2022 encouraging use of BIL funds to supplement emerging contaminant funding.

Bipartisan Infrastructure Law (BIL) funds for other emerging contaminants as indicated necessary by PWS in California.

2. Encourage broader eligibility for DAC designated funds in DAC neighborhoods.

ACWA and CMUA are concerned that the proposed eligibility for disadvantaged community (DAC) designated funds continues to exclude some of the poorest communities in the State, specifically those that are located in the service areas of large urban providers, and now also seeks to exclude medium-sized DACs as well. ACWA and CMUA suggest that eligibility for DAC designated funds, as written in the IUP, be broadened to consider disparities within medium and large urban service areas, and thus enable communities or neighborhoods to qualify for DAC designated funds. As currently written, the IUP does not allow for the distribution of DAC benchmarked principal forgiveness and loans to these neighborhoods. There are numerous examples of worthwhile projects that would significantly benefit DACs that are excluded from DAC funding^{2 3}. The proposed definition of DAC should include the entire service area or a community therein as eligible for DAC funding in the IUP because this aligns with the USEPA's Bipartisan Infrastructure Law State Revolving Fund Implementation Memo and the statutory definition in California Health and Safety Code section 116275. DFA has already employed this broader definition via the Lead Service Line Replacement IUP, and ACWA and CMUA believe it should be applied consistently across the funding program.

The State Water Board should consider flexibility and consideration for projects in medium and large PWS with significant public health benefits to DAC residents and Californians more broadly. Confidence in the ability of the PWS to successfully complete the project and deliver a return on investment could also be factor in determining medium and large PWS that should be eligible for DAC designated funds. We recognize

² Example 1: US Census Data for two communities in a PWS (located by an Ammoniation Station and an On-Site Hypochlorite Generation Station) show median household income at 59% and 73% of the Statewide MHI, respectively. Similarly, the percentage of the population living in poverty is 24.1% and 17.4%, respectively, versus 12.2% Statewide. Neither of these projects was able to qualify for DAC-targeted funding under DFA's current definition. However, these projects directly benefit the communities in question. The DWSRF Construction Financing Application requests both (1) total population served by the applicant and (2) total population served by the project. In order to provide the latter, the PWS isolates the service zones impacted by the project. By doing so, PWS would also be able to provide demographic information for those service zones to demonstrate whether a disadvantaged community is the direct recipient of the public health benefits of a project. The public health benefits should take precedence in consideration.

³ Example 2: PWS is seeking project upgrades for PFAS treatment. Until PFAS treatment meets federal standards, this water source is not usable, which means the PWS is relying more on imported water. Not only is the cost for the treatment expensive, the imported water is more expensive which means all of their customers are being impacted (not just those in DACs). The project is not in a DAC, so access to DAC funding under the DAC parameters will not apply to this project, but it will directly benefit DACs within the service territory.

that this is a complicated topic and encourage that solutions be further explored in the State Revolving Fund Advisory Group (SAG).

3. Concerned about proposed repayable loan award cap for DWSRF⁴.

ACWA and CMUA worry that the proposed repayable loan award cap (\$50 million maximum for each new project on the Fundable List, \$100 million for the applicant's combined projects) will negatively impact large, multi-year projects that have a high degree of confidence for providing return on investment to the DWSRF. Both the DWSRF and the Clean Water State Revolving Fund (CWSRF) IUPs state that "The Deputy Director [of Division of Financial Assistance] is directed to evaluate the potential impacts of rising construction costs and the DWSRF's ability to finance requests for higher loan amounts for existing loan projects before approving loan increases, approving new loans on the Fundable List, or bypassing projects to add new loan projects to the Fundable List. The Deputy Director should prioritize use of the repayable loan capacity for potential costs increases on previously funded loans rather than adding new loan projects."

We recognize that DFA needs to manage the distribution of funds now that it is nearing oversubscription. All PWS are under high pressure to seek additional funding for critical infrastructure projects to offset the financial challenge that ongoing inflation of costs provides. Flexibility should be considered for larger projects if DWSRF funds are left over, waiving the cap for PWS that can demonstrate that the scale and complexity of the project or greater public health benefits are worthwhile. We recommend that DFA be diligent in re-purposing any leftover funds to mitigate oversubscription and funding gaps for essential, eligible drinking water projects. We also recognize that limited funding may be an annual problem and thus encourage that policy amendments be explored in the SAG to remedy this concern long term.

4. Clarify and simplify DWSRF Loan Provisions for Build America Buy America requirements.

ACWA and CMUA request that DFA work to clarify the added DWSRF Loan Provisions for SFY 2024-25 to identify differences between United States Environmental Protection Agency (US EPA) Build American Buy America (BABA) requirements and additional BABA requirements issued by the State Water Board. It remains unclear what the reasoning is for layering additional requirements for SRF applicants instead of simply relying upon

⁴ The DWSRF IUP proposes that repayable loan funds are limited to \$50 million maximum for each new project on the Fundable List. Applicants may allocate/reallocate the total for each project to another project on the Fundable List as long as the estimated repayable DWSRF loan funding does not exceed \$100million for the applicant's combined projects.

federal requirements. As an unintended consequence, numerous clarifying questions have arisen for potential PWS applicants⁵.

We recommend that DFA provide additional guidance to inform applicants of how to navigate the DWSRF Loan Provisions to address: adjustment period waivers, products coverage, location of projects on private property, waiver applicability to co-funded projects, use of cognizant agency in co-funded projects, where cognizant agency applies for waivers, and cost obligations for federal projects.

5. Appreciate the work of the State Revolving Fund Advisory Group.

We appreciate the ongoing efforts of the SAG, and think the SAG has some essential work to address SRF policy amendments that will improve the SRF and IUP processes. We look forward to working with the SAG to address policy amendments concerning: DAC funding eligibility, loan caps, performance metrics related to application reviews, flexibility of loan terms and conditions, consideration of existing bond covenants, expedition of loan applications, clarity on available funding to apply for, and other issues that arise.

6. Support for specific CWSRF Comments made by California Association of Sanitation Agencies and WaterReuse California.

We support the written CWSRF Comments made by California Association of Sanitation Agencies (CASA) and WaterReuse California (WaterReuse) regarding: equivalency projects, Water Recycling Funding Program funding scenarios, and further discussion about establishing criteria for recycled water projects in disadvantaged communities.⁶

Conclusion

We appreciate the State Water Board's consideration of these comments, and we are ready to assist DFA in future IUP discussions and discussion policy amendments in the SAG. If you have any questions regarding these comments, please contact us at NickB@acwa.com or (916) 669-2377 or aabergel@cmua.org or (916) 841-4060.

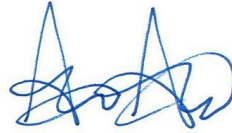
⁵ The proposed DWSRF Loan Provisions have resulted in numerous technical questions that need to be answered by DFA before proceeding related to: adjustment period waivers, products coverage, location of projects on private property, waiver applicability to co-funded projects, use of cognizant agency in co-funded projects, where cognizant agency applies for waivers, and cost obligations for federal projects

⁶ CASA and WaterReuse submitted a CWSRF Comment Letter on July 15, 2024 discussing equivalency projects, Water Recycling Funding Program funding scenarios, and further discussion about establishing criteria for recycled water projects in disadvantaged communities.

Sincerely,



Nick Blair
State Relations Advocate II
Association of California Water Agencies



Andrea Abergel
Manager of Water Policy
California Municipal Utilities Association

cc: The Honorable Joaquin Esquivel, Chair, State Water Resources Control Board
The Honorable Dorene D'Adamo, Vice Chair, State Water Resources Control Board
The Honorable Laurel Firestone, State Water Resources Control Board
The Honorable Sean Maguire, State Water Resources Control Board
The Honorable Nichole Morgan, State Water Resources Control Board
Ms. Eric Oppenheimer, Executive Director, State Water Resources Control Board
Mr. Joe Karkoski, Deputy Director, State Water Resources Control Board Division of Financial Assistance
Mr. Michael Lauffer, Chief Counsel, State Water Resources Control Board
Mr. Dave Eggerton, Executive Director, Association of California Water Agencies
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