



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF WATER

March 17, 2023

**MEMORANDUM**

**SUBJECT:** Documentation of Drinking Water State Revolving Fund Program Withholding Decisions for State Capacity Development Strategies and Need for Program Coordination

**FROM:** Marietta Echeverria, Director  
Drinking Water Capacity and Compliance Assistance Division  
  
Anita Maria Thompkins, Director  
Drinking Water Infrastructure Development Division

**TO:** Water Division Directors  
Region I-X

This memorandum reminds EPA Regional capacity development coordinators and Drinking Water State Revolving Fund (DWSRF) Branch Chiefs and staff about the Safe Drinking Water Act (SDWA) capacity development strategy approval process and reiterates key coordination actions between the two programs. These coordination actions ensure EPA Regional DWSRF Branch Chiefs and staff have the information they need to award capitalization grants and, if necessary, withhold funds if a state does not meet SDWA requirements for the development and implementation of capacity development strategies.

America's Water Infrastructure Act (AWIA) of 2018 (P.L. 115-270) section 2012 amends SDWA section 1420(c) to require state drinking water programs to incorporate asset management into their state capacity development strategies. See [Implementation of Capacity Development Program – Related Safe Drinking Water Act Amendments in the America's Water Infrastructure Act](#), December 2019.<sup>1</sup> States were required to submit their revised capacity development strategies to their respective EPA regional offices for approval by December 31, 2021, for which EPA then granted an extension to December 31, 2022. In accordance with SDWA section 1420(c)(1)(C), a state must be developing and implementing a capacity development strategy in order to receive 100 percent of the allotment it's entitled to receive under section 1452 (drinking water state revolving loan fund).

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<sup>1</sup> This memorandum is available at the following address: [www.epa.gov/sites/default/files/2019-12/documents/awia\\_sec\\_2012\\_reflections\\_memo\\_508.pdf](http://www.epa.gov/sites/default/files/2019-12/documents/awia_sec_2012_reflections_memo_508.pdf)

We encourage the Regional drinking water program staff to inform the Regional DWSRF Branch Chief of a state's capacity development strategy approval status as soon as possible, and follow up with any changes to the approval status in a timely manner. While EPA Regional capacity development staff determine whether a state has met the capacity development program requirements, DWSRF Project Officers must ensure they have the documentation to award the full amount of a state's DWSRF capitalization grant. The enclosures include example memorandums, based on the state's strategy status, which can be used by the Regions to ensure proper documentation.

If a final, revised capacity development strategy has not been approved by EPA, the DWSRF project officer must condition the award of the capitalization grants. The state will be awarded the entirety of a capitalization grant, but its total cost reimbursement for eligible projects and activities is limited to 80 percent of each capitalization grant amount. This includes all DWSRF funding appropriated for fiscal year 2023 (i.e., base, Bipartisan Infrastructure Law, and other supplemental DWSRF funding). Once a state's strategy has been approved, the state should be notified that the conditions placed on its capitalization grant(s) have been met. Please work with contacts identified at the bottom of this memorandum if you have states that will have their capitalization grant(s) subject to this grant condition.

As of March 16, 2023, 38 states had received approval of their revised capacity development strategies and 13 states' strategies are undergoing EPA review. The enclosed table shows the most recent status of states that do not have an approved strategy and may be subject to a withholding.

As states begin to implement their new capacity development strategies, the Regional DWSRF and drinking water programs should regularly coordinate outside of the withholding decision process to ensure the success of the capacity development program. We encourage you to share information about capacity building activities and needs identified by the states, as well as collaboratively provide technical assistance to systems lacking technical, managerial, and financial capacity.

We appreciate your continued efforts in working with your states to promote the importance of safe drinking water through the Capacity Development and DWSRF programs. If you have any questions, please contact Alison Flenniken, [Flenniken.Alison@epa.gov](mailto:Flenniken.Alison@epa.gov), with the capacity development program or Kiri Anderer, [Anderer.Kirsten@epa.gov](mailto:Anderer.Kirsten@epa.gov), with the DWSRF program.

Enclosures (3)

cc: Drinking Water Program Managers, Region I-X  
Capacity Development Coordinators, Region I-X  
DWSRF Branch Chiefs, Region I-X  
DWSRF Section Chiefs, Region I-X  
Rose Kyprianou, Supervisor, Capacity Development Branch, OGWDW  
Damaris Christensen, Supervisor, Water Finance Branch, OGWDW  
Kirsten Anderer, Supervisor, Water Infrastructure Technical Support Branch, OGWDW

Enclosure 1 – States Without an Approved Strategy and Potentially Subject to 20%  
Conditioned Capitalization Grant(s)

**As of March 16, 2023**

Region	State
1	Rhode Island
	Connecticut
2	New Jersey
	New York
	Puerto Rico
5	Indiana
	Illinois
	Michigan
	Minnesota
	Wisconsin
6	New Mexico
9	California
	Hawaii

## Enclosure 2 – Example: Determination Memo for State with an Approved Strategy

### **MEMORANDUM**

**SUBJECT:** Status of [State]’s Capacity Development Strategy and Appropriate Withholding Determination

**FROM:** [Name], EPA Region [x] Capacity Development Coordinator

**TO:** [Name], EPA Region [x] DWSRF Branch Chief

America’s Water Infrastructure Act (AWIA) of 2018 (P.L. 115-270) section 2012 amended the Safe Water Drinking Act (SDWA) and requires that the states amend their state capacity development strategy to include a description of how the state will encourage the development of asset management plans that include best practices and include any training, technical assistance, and other activities to help implement asset management plans. In accordance with SDWA section 1420(c)(1)(C), a state must be developing and implementing a capacity development strategy in order to receive 100 percent of its allotment under section 1452 (drinking water state revolving loan fund).

As of this date, the [State Agency] has a revised strategy that has met the SDWA requirements, approved by EPA on [date approval letter sent to state], and we recommend no withholding of the FY23 Drinking Water State Revolving Fund capitalization grants.

We would like to thank [State Capacity Development Program Manager Name] and their staff for their efforts of protecting public health through the drinking water Capacity Development program.

Questions regarding this matter can be directed to me.

cc: [add names as appropriate]

## Enclosure 3 – Example: Determination Memo for State without an Approved Strategy

### **MEMORANDUM**

**SUBJECT:** Status of [State]’s Capacity Development Strategy and Conditioning the Capitalization Grant

**FROM:** [Name], EPA Region [x] Capacity Development Coordinator

**TO:** [Name], EPA Region [x] DWSRF Branch Chief

America’s Water Infrastructure Act (AWIA) of 2018 (P.L. 115-270) section 2012 amended the Safe Water Drinking Act (SDWA) and requires that the states amend their state capacity development strategy to include a description of how the state will encourage the development of asset management plans that include best practices and include any training, technical assistance, and other activities to help implement asset management plans. In accordance with SDWA section 1420(c)(1)(C), a state must be developing and implementing a capacity development strategy in order to receive 100 percent of its allotment under section 1452 (drinking water state revolving loan fund).

As of this date, the [State Agency] has submitted their revised strategy to EPA, however, we are in the process of reviewing the submission to ensure it meets the SDWA requirements.

Therefore, **the DWSRF project officer must condition the award of the capitalization grants so that the state may only get reimbursed for costs on eligible projects and activities up to 80 percent of each capitalization grant (including Bipartisan Infrastructure Law and other supplemental FY23 DWSRF funding) until the state has met the requirements of SDWA Sections 1420(c).**

We will keep you informed should the status of this recommendation change.

Questions regarding this matter can be directed to me.

cc: [add names as appropriate]