



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

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OFFICE OF
WATER

MEMORANDUM

SUBJECT: Drinking Water Infrastructure Grants Territorial Program – Guidance Amendment #1

FROM: William R. Diamond, Director *William R Diamond*
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Office of Ground Water & Drinking Water

TO: Alexis Strauss, Director
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The purpose of this memorandum is to provide you with additional guidance for implementation and management of your Drinking Water Infrastructure Grants Territorial Programs (DWIGTP). Initial guidance was issued through a memorandum from Bob Blanco dated November 17, 1998.

In the November 17 memorandum, we advised that in cases where you award a "program grant" to a Territorial government, you may allow the Territory to use up to four (4) percent of the total "program grant" for its administration of the Territorial program. Our determination was based on the authority provided by the Safe Drinking Water Act (SDWA). The DWIGTP is authorized in section 1452(j) of the Act, and that provision directs EPA to make grant allotments for the Virgin Islands, the Northern Mariana Islands, American Samoa, and Guam, and allows EPA to make grants from these allotments to either the governments of the Territories or directly to the water systems in the four jurisdictions. The section further specifies that the grant funds are "to be used for the public water system expenditures referred to in subsection (a)(2)". Subsection (a)(2) essentially allows the funds to be used for water system infrastructure projects. This allowance is the basis for any determination about appropriate uses of the DWIGTP funds. Any use would need to be necessary, or inherent, in awarding infrastructure improvement projects to, or for, public water systems.

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When we were developing the original guidance regarding this grant program we knew that any Territorial government that administered an Infrastructure Grant program would be faced with administration costs. We determined that, because those costs were inherent in making the awards for the projects allowed for under section 1452(a)(2), the authority of that section extended to use of the funds for program administration. Since the Act does not specifically address this use, however, we needed to establish an amount that would be appropriate. We chose four (4) percent because it is the amount that the Act allows states to use for administration of their State Revolving Loan Funds (SRF).

We were recently approached with a request to investigate if any of the other "set-asides" that the SDWA authorizes for the states' SRF programs could also be made available to a Territory which was administering a DWIGTP -- specifically the allowance that two (2) percent may be used for technical assistance to small systems. I would like to emphasize that the Act does not authorize Territorial governments to take any "set-asides" from their program allotments. Our earlier determination that it was allowable for a Territory to use up to four (4) percent of its grant for administration is not an authorization for a "set-aside". It was an acknowledgment that there are administration costs associated with operating a program to award grants for infrastructure improvement projects, and that those costs are inherent and necessary in the implementation of that program.

Although the Act does not authorize Territorial governments to take "set-asides" from their program allotments, we believe that operating a program to award grants for infrastructure improvement projects carries with it an inherent cost of providing technical assistance to the systems that are seeking the project awards. As a result, we have determined that it is appropriate to allow a Territory that is operating an Infrastructure Program to use a portion of its grant to provide this technical assistance. As with the administration costs, we believe that the portion of the grant that may be used by the government for technical assistance should be consistent with the percentage allowed by the Act for states operating a SRF program. This allowance is a maximum of two (2) percent, and is limited to providing assistance to small systems (i.e., those serving fewer than 10,000 people).

Please add this amendment to the original guidance package issued on November 17, 1998. If you have any questions about the new allowance, please give me a call on (202) 260-7077 or have your staff call Ray Enyeart on (202) 260-5551.

CC: Walter Andrews (Region 2)
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