

MEETING SUMMARY

State/EPA SRF Work Group Meeting November 12-13, 2003 Boston, MA

- I. **Welcome and Introductions** - Chuck Job, EPA Headquarters and Tim Banks, Florida
(See Attachment I for a complete listing of meeting attendees.)
Ground Rules - Ian Kline, Facilitator

II. **Annual Review** - Tim Banks, Florida

Mr. Banks introduced a new agenda item in response to a discussion that occurred at CIFA's Sunday members' meeting. Many states at the CIFA meeting expressed concerns about the recently issued Interim/Final Annual Review Guidance. Mr. Banks invited states to discuss their thoughts on the guidance with the workgroup.

Chuck Job provided a summary of EPA's efforts to standardize the state annual reviews conducted by the regions. EPA's development of the guidance was in response to: (1) a need to establish consistency in reviews across the regions, (2) the GAO review of the DWSRF, (3) the Inspector General's (IG) risk assessment of the SRFs and the upcoming IG audit of the CWSRF program and (4) the OMB Program Assessment Reporting Tool (PART). The guidance provides regional staff a checklist which must be filled out during the state annual review process. Regions will be expected to fill out as much of the checklist as possible prior to an on-site visit using information provided in a state's annual report and audit report. Then, any holes in the checklist will be filled during the state on-site visit. EPA intends for the annual review to be thorough but not onerous. After a few review cycles, EPA hopes to be able to streamline the review process.

The new guidance is being piloted in 3 states: Maryland, Maine, and Wisconsin. Based on pilot experiences and region and state feedback received by December 31, 2003, EPA will revise the guidance in hopes of issuing it as final in February.

The workgroup agreed to have Mr. Banks send a copy of the guidance to all states and invite them to send comments to their region, who will then funnel comments to EPA Headquarters. EPA regions must receive comments by December 31, 2003.

III. **Updates**

DBE RULE – Jordan Dorfman, EPA Headquarters

The provisions of the proposed Disadvantaged Business Enterprise (DBE) rule have not changed in the last three years. The rule would create a \$250,000 exemption from the fair share requirements. One question remaining is whether the \$250,000 exemption should be extended to other rule requirements, such as the good faith and reporting provisions. EPA needs states to submit comments that document the burden the provisions of the rule would impose on states and systems.

Discussion

When asked if anyone had estimated the cost per borrower of this rule, EPA responded that California has been trying to develop numbers.

When asked what kind of information EPA needed from states, EPA responded that it needs solid information on whether to extend the exemption to other areas and whether the rule is a burden to states.

Region 9 is anticipating problems in the next round of negotiations because the new rule only counts US citizens, which excludes a significant portion of several states' residents.

When asked about the timing of implementation, EPA responded that implementation is several years away, which means that the 2004 capitalization grants will not be affected.

Regions should ask their states to submit their comments directly to the docket. The comments are much more effective if they come directly from the states rather than being filtered through the regions.

Legislative Update – Jordan Dorfman, EPA Headquarters

The House reauthorization bill, HR 1560, was introduced in the spring, went nowhere, and is now dead. The bill did not make it out of committee due to disagreement over Davis-Bacon provisions. It seems unlikely that a bill will get passed out of committee unless it resolves the Davis-Bacon issue. There is currently no Senate bill, but one is being crafted for next year.

On the appropriations side, EPA is still operating under a continuing resolution. The proposed appropriation bill includes language that would allow states to manage earmarks (STAG grants) under SRF rules (no separate requirements) if any project receives both earmark and SRF dollars. The appropriations bill also includes a request for a study on the economic impact of the SRF program.

The earmark-SRF provision incorporates state procurement laws rather than federal laws and allows for projects to undergo SRF state environmental reviews rather than NEPA reviews.

Discussion

When asked whether it would be helpful for EPA to collect state comments on the costs of reapplying Davis-Bacon, EPA suggested that states should speak directly with their congressional delegation because EPA has no position.

Investigations of SRFs – Sheila Platt, EPA Headquarters

The EPA IG is conducting a program audit of the CWSRF. This summer, the IG conducted a preliminary study of the CWSRF program to look at the program's environmental benefits and financial oversight. Based on the findings of this preliminary

study, the IG has decided to do a full program audit. The audit will be conducted in two phases. In the first phase, the IG will examine EPA's efforts to measure environmental benefits and plans to issue a report in May 2004. The second phase, which will examine EPA's financial oversight of the CWSRFs, will not begin for at least one year.

Discussion

When asked whether there was a list of environmental benefits that states are supposed to be recording, EPA responded by saying that it has been trying to come up with a list of measures and is still open to ideas. Currently, it is up to states to track environmental benefits as they see fit. States expressed concern that they do not know how to tell their staff to collect information on environmental benefits without guidance from EPA.

EPA acknowledged that measuring benefits is a challenge, which is why EPA has funded a work assignment to address the issue. There are many schools of thought on how to get beyond financial measures. EPA is very interested in any attempts by states, but state efforts are voluntary. States and EPA need to work together to develop a way to measure benefits because it will help the program in the appropriations process.

EPA's IG is also going to look at the DWSRF. The IG released a final report on the Capacity Development program this fall in which it expressed concern about the inconsistency of implementation across the nation. One finding was that the DWSRF program should have been more consistent about withholding decisions. Assistant Administrator Mehan disagreed with the findings because of the Congressional intent for the Capacity Development program to be flexible. EPA did not wish to increase the reporting burden to the states. The Office of Water is currently developing a response to the final report. As a result, the Capacity Development program may be looking into strategic plan indicators for its efforts. EPA will stand firm on not changing the DWSRF regulations to mandate withholding.

In addition, because assessments were due in the spring of 2003, the IG is taking a look at state Source Water Assessment programs. The IG is expected to make a final decision in January, which may affect the DWSRF because it funds source water assessments. It looks like the next target of study will be Operator Certification.

Status of Recent Publications and Policies – Sheila Platt and Kimberley Roy, EPA Headquarters

CWSRF recently finished work on an update of the *NPS Brochure*. The brochure was originally published five years ago and gives examples of how states fund nonpoint source efforts. The brochure can be found on the CWSRF website.

The *Crosscutter Handbook* has been finalized and is on the 2003 Fall CIFA CD. The *Handbook* includes all the federal crosscutters that EPA is aware of at this time.

One final note: OMB revised A133 to increase the audit threshold from \$300,000 to \$500,000 beginning in FY 2004.

On the DWSRF side, EPA has just published a *Handbook on Coordinating Funding for Water and Wastewater Infrastructure*. The handbook examines the coordinated funding approaches of six states. The document can be found on the SRF 2003 Fall CIFA CD. In addition, the DWSRF has released a document on funding for source water activities. Headquarters is also working on a land acquisition toolbox for both SRF programs.

Discussion

When asked about the status of the fee policy, EPA answered that it has been held up by management changes at Headquarters. The proposed policy has not changed and is targeted to be issued in early 2004.

IV. The Drinking Water Needs Survey – Chuck Job, EPA Headquarters

EPA thanked all the states for their cooperation with the latest *Drinking Water Needs Survey*. A shortage of EPA resources necessitated a different process this year. The *Needs Survey* is very important in terms of developing support for the DWSRF. Congress is always interested in the most recent needs estimate, and DWSRF appropriations depend on the survey results. Currently, 64% of questionnaires have been completed and submitted. Surveys were sent to almost 5,000 systems, including all large systems and a random selection of medium-sized systems. The participation rate of these systems needs to be at least 90% to meet EPA's goal. Several states are already at 100%. More than a dozen more states have exceeded or are nearing 90%. The deadline for questionnaires is November 21, 2003.

Discussion

Several states admitted that the process has been a nightmare. One state had only received 64% of its surveys and did not believe it was going to receive any more. Several states are now facing the prospect of filling them out themselves. One state compared getting systems to return calls to pulling teeth. Several states believe that the process should be changed so that it is easier for systems to fill out the surveys. They suggested streamlining the survey and the process because states lack the resources to take up the slack.

Several states testified that the lack of contractor support has been a big problem. Several states said that it was difficult to motivate private systems to participate since they would not benefit from the SRF funding. One state had a problem with the format that the system provided – it was not compatible with EPA's contractor, which meant the state had to convert it.

One state that had lost out last time due to poor participation had dramatically increased its effort this time. The problem they faced was that the survey relied on the voluntary efforts of systems. Another problem cited was the slow pace of EPA in processing the surveys.

Smaller states complained that they have little incentive to participate. If EPA is worried about data consistency and participation, it should create an incentive for them to participate.

When asked whether the November 21, 2003, deadline was flexible, EPA answered that this deadline was the latest possible date to receive surveys in time to do the analysis necessary to submit the *Report to Congress* on time. EPA expects the analysis to last until March.

IV. Clean Watersheds Needs Survey – John Hart, TetraTech

The main goal of the *Clean Watersheds Needs Survey* is to provide data to Congress. The latest *Survey* included a field for geographic coordinates and boundaries, which meant the resulting data could be mapped. States enter facility specific data into the database using information from facility plans. Although the forecast horizon is officially twenty years, the true horizon is between two and twenty years. After overcoming early problems with security concerns, EPA has been able to get a new data system online that provides more detail than is available in the 13th *Report to Congress*. EPA estimates that the needs are \$181 billion – a \$27 billion increase from the previous survey. The majority of these needs are for maintaining existing infrastructure.

The new data system allows the public to drill down and retrieve needs data for a particular area, like a county or city. Available data includes total need, pollutant discharges, population reports, and facility fact sheets. Each report allows users to query the national database. Output reports can be produced in HTML, Excel, or as text files. In addition to looking at the data online, users can import it into GIS so that the data can be mapped. Beginning in January, the public can download the Enviromapper software to map the *Needs Survey* data with other data from EPA, data such as health consumption advisories. The burden to maintain the data system, to collect the data, and to make it available to the public is large. EPA is now focusing on how it can get the maximum value from this investment. The data could be used to create baselines or to estimate future scenarios. States could examine the relationship between watershed needs and SDWIS violations.

A workgroup was created at the end of the last survey to plan for the 2004 survey. The current plan is to have a national training and kickoff in April 2004.

For more information on the CWSRF Clean Water Needs Survey, please contact Phil Zahreddine at 202/564-0587.

V. Using DWSRF/CWSRF for Water Efficiency Measures – Jordan Dorfman, EPA Headquarters

The DWSRF program expanded eligible projects to include a variety of water efficiency measures. These measures save utilities money by allowing them to avoid, downsize, and/or postpone infrastructure projects. Water efficiency helps water suppliers withstand droughts and protects the environment. Assistant Administrator Tracy Mehan's four pillars for closing the infrastructure gap are: a watershed approach; full-cost pricing; asset management; and water efficiency. Mr. Mehan wants to clarify the eligibility of water efficiency projects under the SRFs and give states the flexibility to use SRFs to provide low-interest loans for equipment retrofits and rebates. The types of measures that are available

for funding include installing water meters, installing or retrofitting water-efficient devices¹, and creating dual pipe distribution systems.¹ Rebate or incentive programs, such as rate reductions for purchase of water efficient equipment, could be funded as part of a larger project. CWSRF can fund efforts that reduce wastewater flow from public facilities.

Discussion

When asked what the repayment period should be for water efficiency projects, EPA answered that it is up to the state. The DWSRF can put conditions on a loan that require a water system to put water efficiency plans in place. In addition, the DWSRF can fund many water efficiency efforts through set-aside activities. An incentive program can be funded by SRFs if it is the most effective way to comply with effluent guidelines/potable standards or to delay new infrastructure projects.

When asked how a rebate program would work, EPA answered that a rebate program could be funded if it replaced a more expensive capital investment. The utility would receive funds to issue rebates and then repay the loan from operating revenues. The utility could choose to reimburse either homeowners or vendors. In addition, the utility could create an incentive by charging customers that install water efficient devices a lower water rate. The customer would not be considered a subgrantee.

When asked whether the state would give the money to the utility at the outset, EPA responded that the state would review the system's expenditures and then reimburse the utility. SRF funds can be used for feasibility studies because these studies are a form of planning (like a 212 project).

When asked if there is any requirement for the loan recipient to show that the overall project will cost less due to the water efficiency measure(s), EPA answered that states should only fund projects that are going to avoid a larger infrastructure investment. Each project will need to be evaluated on its own merit.

- VI. Addressing Challenges Facing the SRF Programs** – Mark Kellett, Northbridge
- SRF programs are not immune to 2003 and 2004 state budget shortfalls. Twenty states reported SRF budget cuts, and over thirty states have experienced hiring freezes, retirements, layoffs, and staff turnover. Some SRF's cannot use fee revenues to restore these resources. States are trying to do the same or more work with fewer staff. At least six states have experienced slow project implementation.

State responses to resource challenges include more efficient management systems to streamline the process, outsourcing to Environmental Finance Centers, RCAP programs, and EPA-paid contractors, and funneling money to independent agencies that can hire contract employees for the programs. Some states have managed to increase internal state support thorough stakeholder outreach.

¹ Limited to public buildings through the CWSRF.

Discussion

State representatives spoke to these challenges and their consequences. Staff losses have slowed loan processing and threaten pace in several states. Responses often include hiring contractors (Washington), streamlining management systems (California, Illinois, Pennsylvania), and increasing outreach to elected officials (Delaware, Massachusetts, Montana, Oklahoma). Pennsylvania's transition to a paperless process will increase efficiency and is recommended to other states. Several states cited fee revenue as an effective buffer against state resource limitations; Delaware is adopting new operating procedures that will allow it to run solely on fee revenue. New Mexico has been reviewing its fees and soliciting support from EPA in response to pressure to dip into SRF fees to support other programs. Massachusetts and California are struggling to relieve staff losses, and other SRF programs have had trouble finding qualified applicants. Demand remains strong in many states but may decrease in others due to financially strapped municipalities (Massachusetts) and delayed reviews and consent orders (Illinois).

VII. State Examples of Innovative Financing Mechanisms – Sharon Dixon Peay, Connecticut

Connecticut has recently implemented two innovative financing mechanisms, the Nitrogen Credit Exchange Program and a change to the state's financing strategy.

Nitrogen Credit Exchange Program

The Nitrogen Credit Exchange Program came from collaboration with the State of New York in 2001. EPA approved a joint Connecticut-New York plan to combat hypoxia in Long Island Sound caused by nitrogen. A nitrogen TMDL was created to cover all seventy-nine municipalities in Connecticut. The state established the program through legislation, had EPA approve the nitrogen general permit, and began the trading program. The state now projects that it will meet its nitrogen reduction goal at a lower cost to the state, to the SRF, and to municipalities.

Discussion

When asked about the difficulty in writing a general permit for 79 facilities, Ms. Dixon Peay replied that it was not very difficult because the state had good data on the impact of each municipality on the nitrogen flow into the Sound.

When asked about estimating the overall savings, Ms. Dixon Peay replied that the reduction in SRF interest rates has saved communities around \$300 million.

State's Financing Strategy

The second innovative finance mechanism employed in Connecticut was a change in the general revenue structure by simplifying the state's financing strategy. The state relies on the strength of its assets and prudent management of the fund. Up until June 2003, the state had been leveraging its CWSRF program since 1991. It had issued \$745 million in bonds and had accomplished 2 limited refundings. The state had loan commitments that totaled more than \$934 million. The pace of the Connecticut program was pretty good. As part of

its leveraging agreement, the state had huge reserves; 50% of every bond dollar had to be held in reserve. Two years ago, Goldman Sachs approached the state with an innovative idea.

As the state was cutting the budgets of many programs, the SRF had to consider its fate. The state's credit was rated AAA. The state decided that it could keep their interest rates constant, continue to charge no fees, and continue to grant 20% of the cost of each project to the recipient. The Goldman plan was to make the SRF funds more self-sufficient. The state got a new general bond resolution that authorizes use of all program assets, which means that all program assets are unencumbered except for those needed to pay debt service. Therefore, the state only had to restrict investment yields on that portion of its fund that would support debt service. Most of the assets of both funds are now unencumbered.

This additional flexibility gave municipalities a chance to be more innovative. In addition, the state has been able to simplify the financing system for investors and bond agencies. The drawback was that the state was moving from an old indenture to a new indenture. Connecticut would have to be more proactive as a state.

Discussion

When asked whether the funds were exempt from arbitrage, Ms. Dixon Peay replied that arbitrage rules do not apply to assets that are not pledged when the state has identified sufficient money to cover its debt service. The pool of money coming from loan repayments covered most of the debt service. The portion not covered by repayments is in a support fund. Repayments are deposited into a debt service repayment fund. Therefore, the arbitrage rules cover the debt service fund and the repayment fund. Any other monies that come through the door are put into the revolving fund and are available.

VIII. Status of Assessing Environmental/Public Health Benefits in the CWSRF/DWSRF Programs - Greg Mason

Greg Mason discussed the Georgia Environmental Facilities Authority's (GEFA) effort to measure SRF benefits in light of protecting their state program budgets. GEFA surveyed several states, then chose eleven metrics and six program outputs that could link SRF loans to positive economic impact and quality of life improvements using data from the past three years. They are working with Georgia's environmental agency to build a database to record these metrics and outputs.

Discussion

Several states questioned the feasibility of measuring the environmental benefits of SRF programs, especially in light of the negative conclusions from a task force in 2001. Massachusetts could start collecting information on its new loans, but tracking benefits of past projects would be difficult. The larger question is how to define and report environmental benefits – what to track and measure.

Oklahoma voiced support for incorporating benefits information into SRF annual reports to demonstrate accountability for water quality improvements and to showcase SRF achievement. Oklahoma asks applicants for information on environmental problems such as health warnings, and rewards those who illustrate anticipated benefits in the priority ranking process. The state is trying to determine how to measure benefits after project completion. Construction time lags complicate adding such an assessment to loan closeout.

Another question focused on the difficulty of isolating the benefits of SRF loans (versus, for example, 319 grant benefits). Mr. Mason answered that it was unrealistic to unbundle benefits. Another challenge, especially for the DWSRF, will be to measure the benefits of projects that prevent problems rather than correct them. Some states resisted the idea that additional measures would be more valuable than MCL and permit compliance information.

Discussion turned to the difficulty of devising nationally consistent benefits measures. Concerns centered on the possibility that OMB's push for performance metrics could lead EPA to impose new data requirements on states or to force changes to state priority systems to control program outcomes. EPA emphasized that the current effort to expand benefits assessment capability is in the SRFs' best interest independent of OMB and OIG. A contractor will work with the benefits subworkgroup to assess the feasibility of a variety of benefits measures in individual states and nationally. Expect solid progress by the May meeting. EPA hopes to produce a report that can guide benefits assessment in all states.

States again voiced concern that it is unlikely that EPA will find measures appropriate for all states. Others responded that the best way to proceed is for the states to work together proactively. Mr. Mason volunteered to pilot GEFA's proposed metrics and to share his information. He suggested that all states need think about how they can measure SRF benefits and encouraged participation in the subworkgroup. A number of states are trying to identify and evaluate alternatives. The State of Washington has simplified its assessment process wherein loan recipients report on four benefit categories: public health and safety, environmental health, system performance, and economic development. Data sources exist at the federal and state level. EPA added that all measures do not need to be quantitative.

IX. Workgroup Leadership – Tim Banks, Florida

The workgroup will need to select a new vice-chair at the May meeting in Washington, D.C. Mr. Banks invited all eligible state Workgroup members to consider serving as vice-chair. It is very important to have state leadership and the burden is very small.

Mr. Mason invited all states to funnel issues to the state chair and co-chair throughout the year so that they can be incorporated into the agendas for future meetings.

X. State Questions for Discussion

What are the state experiences with assessing fees in the CWSRF program?

There are still some states that are confused about the difference between program income and non-program income. Some states want to use fees (program income) for grants to small systems, but these grants must come from non-program income.

Florida was using its program income for grants to small disadvantaged communities but has recently modified its program to comply with EPA policy and, in the future, will only use non-program income to fund disadvantaged communities.

South Dakota is tracking its non-program fees and using these funds to make planning grants (up to \$4,000) to small communities (less than 1,000 residents). The program has been very popular and has been expanded to include livestock auction barns.

When asked whether EPA's policy was going to be published in the *Federal Register*, EPA answered that it would be published, but that the timeline was not certain. One participant mentioned that it would help states protect their SRF funds if the policy was published in the *Federal Register*.

Arizona pledged its non-program income fee to bond holders in the master indenture, which provided extra debt service coverage and protected the income from raiding by the state legislature. The money is still available to the program if necessary.

How are states handling systems that previously received Title II funds and are now coming in for CWSRF loans in terms of applying for Title II requirements (e.g., user charge system proportionality)?

Michigan is no longer administering a proportional system. Michigan has tried to stay true on the issue, but EPA has not been a strong partner. Now the state does not know what to do. Without support from EPA, it is difficult for Michigan to continue to insist on a proportional system. If a system received a Title II grant, then the system needs to maintain proportionality for as long as the facility is in use. Proportional users in the same class pay the same fee. What should the state do if it has a system that is no longer keeping proportional fees in effect?

One participant suggested that the state has the right to take the money back from the system. Another suggestion was to refuse to assist the system further, which can only work if the system is looking for more assistance. A stronger option would be to make the proportional requirements statutory. One system in New England did not want to implement user charges, but was forced to by angry residents when the state told media outlets that residents were subsidizing businesses' water consumption. If the system is leased and the federal interests are divested, the system could be released from the user fee requirement.

What are state experiences in making loans to small systems in the DWSRF program? What kind of innovative approaches have states taken?

Vermont has tried to focus on small drinking water systems since the start of the DWSRF program. The state has had difficulty getting the attention of these systems. One strategy they have used successfully is to hire engineering consultants to visit small systems and do a one-day onsite evaluation of the system's infrastructure. The report goes to both the system and the state. This usually gets the systems interested in pursuing projects, especially when the state is willing to provide more technical assistance.

Virginia set up an endowment for counties in the southwest corner of the state. The

endowment provides gap financing for small communities in the form of grants. This model may be useful for other states.

How have states handled security in their drinking water prioritization systems?

Hawaii has recently seen an increase in projects that include aspects, like security and water meters, that were part of the original intent for the DWSRF. Are other states revising their priority lists?

Typically, states award bonus points for security and water conservation measures. These points are added to the base priority point process that adheres to the three original considerations. Security concerns are normally not the sole purpose of a project, but rather an enhancement to a project. If a system wants to do a project solely for security, the state should see how the project does on its own.

In Massachusetts, security measures by themselves do not qualify. Massachusetts did not change its priority scheme. Instead, they just increased the eligible costs on loans they were already going to make.

Vermont has not changed its point system because it wants to keep the focus of the DWSRF on public health. The state has convinced Homeland Security that some of the state's money should be used for security projects at water systems. The state has already set aside \$500,000 for that purpose and is going to develop a priority system to determine how to award that money.

Georgia changed its priority system significantly to allow for redundancy. The state has already funded several projects that were only security related.

In Region 10, some states have changed their priority systems. One state set aside a portion of its CWSRF to fund emergency projects, which included security.

Florida added security to the point system. Security problems get the same score as a compliance problem. Systems that are proposing water efficiency measures receive bonus points.

The *Drinking Water Needs Survey* has a field for systems to enter security needs.

When a state makes a loan to a community and the bids are lower than the amount, what does the state do with the leftover money?

In Massachusetts, the state revises the loan, takes back the leftover money, and uses it for another project. The state only issues loans if a system has a contractor bid in hand, which leads to fewer instances of systems having leftover funds. The state usually awards enough money to cover the bid and a little extra cushion. Systems only pay for the portion of the loan that they use (including fees), which creates an incentive for them to come in under budget.

Montana does not issue bonds until the bid is in on a proposed project. If the project goes

well and the system does not spend the entire amount, the state will let them spend the remainder on metering, leak detection, or other items that are related to the problem the loan was supposed to address.

States in Region 10 generally decrease the amount of the loan so that systems only pay interest on the amount disbursed to them.

When asked if the state has to reissue the bond to get the money back, Montana replied that they have a floating process and a completion certificate that is added to the bond. If a system decreases its loan amount, they only have to repay the new amount. In Washington, the amount can be decreased if it is within 12 months of the bond issuance. If not, the legislature insists that the bonds be reissued, which ties up resources. States in Region 3 decrease the amount of the bond. Minnesota recalculates the amortization schedule if the system uses less than 100% of the amount of the bond.

When asked if other systems on the priority list complain if the system uses money for measures only remotely related to the original project, Massachusetts replied that leftover money is subject to negotiations. The state works with the system to determine if other related costs are eligible. If they are, the state completes a change order with the system. The state stays involved until operations begin at the new facility. In one of the Region 3 states, the state must purchase the bonds back if they extend the loan term from 20 to 30 years.

XI. Record Retention Requirements – John Schnickle, Minnesota

When talking with systems, the state realized that several communities had previously submitted a proposal of which the current staff were unaware. The state is now considering eliminating many of its archives because it feels too much like a library. What are other states doing in terms of record retention? For projects that receive SRF funding, how long must a state keep related records?

Discussion

EPA has a Q&A for both the CWSRF and the DWSRF on how long states need to keep records. Records relating to the capitalization grant must be readily available and kept according to 40 CFR 31 (i.e., three years from the starting date—the Financial Status Report, FSR). Any other record retention requirements are up to the state.

Minnesota has decided that financial records need to be kept for “a long time.” The engineering records for unfunded projects can be disposed of immediately. If funded, engineering files are only kept for a couple years. EPA reminded the states that engineering records should be maintained for 3 years for projects funded by federal SRF dollars.

Massachusetts does not keep records for unfunded projects. The state is leveraged, which means that all records relating to bond issue have to be maintained for term of bond, including things like invoices.

Montana takes the same approach as Massachusetts. When the state decides to clean out its files, it gives them all to the Montana Historical Society because they contain information on things like polluted abandoned mines.

According to one region, there is a retention schedule for CWSRF materials based on an EPA memo. States have to retain records for three years, and EPA is responsible for keeping materials for twenty years. Though EPA is on the hook for this information, it often does not have it. This region contended that regions should get all the documentation from states (before they dispose of it) and keep the paper files for twenty years. EPA Headquarters was not aware of the memo mentioned by the region but has agreed to look into the matter.

Records related to drinking water set-asides should also be kept for three years.

Louisiana will keep files on unfunded projects for five years. If the project has not been funded by then, the file is thrown out and the project is kicked off the priority list. As long as the system is actively working towards building the project, they can remain on the list. The state keeps all project documentation for three years after project completion and all financial records until the loan is repaid.

Michigan has fifty file cabinets of documentation on active loans. The most important materials are the correspondence with the system.

The Georgia Secretary of State has established clear rules on record retention and posted them on the state's website. The state plans to keep documentation for a year or two after bonds are repaid as protection against a federal arbitrage audit.

Pennsylvania, which has implemented a paperless process, does not have to worry about this problem anymore because everything can be stored electronically.

XII. Recap and Planning for Next Meeting

Recap

EPA is going to send out the Interim/Final Annual Review Guidance to everyone (through Mr. Banks) and ask for comments to be sent to the regions by December 31, 2003.

EPA is interested in hearing from regions and states on ideas for how to modify the *Drinking Water Needs Survey* for the next time. One idea might be to have a replacement list of systems that can be used in place of noncooperative systems.

As requested, the presentation on SRF challenges will be sent to all workgroup members.

States are reminded to fill out the DBE comment forms in their folders and send them to the docket.

Next Meeting

The next workgroup meeting will be May 4-5, 2004, in Washington, D.C. The CIFA Legislative Conference is scheduled for the May 6-7, 2004.

The Workgroup state vice chair will be selected at the next meeting. Nancy Parrillo, Tom Griggs, Denise Dang, Mark Bennett, Al Farling, and Mike Perkovich are eligible for vice chair. States asked EPA to send a letter of commendation to Walt Baker for his workgroup service.

One state asked EPA, at the next meeting, to provide an update on the progress of working with HUD and RUS on the topic of coordinated funding.

Attachment 1: List of Attendees

EPA Workgroup Members (and Alternates)

Chuck Job (co-chair) EPA Headquarters
 George Ames (vice) EPA Headquarters
 Sheila Platt EPA Headquarters
 Kimberley Roy EPA Headquarters
 Ralph Caruso EPA Region 1
 Vince Gallo EPA Region 3
 Dorothy Rayfield EPA Region 4
 Sheryl Parsons EPA Region 4
 Andrew Lausted EPA Region 5
 Russell Bowen EPA Region 6
 Nancy Healy EPA Region 7
 Ron Hill EPA Region 8
 Jose Caratini EPA Region 9
 Michelle Tucker EPA Region 10

Other Attendees

Chris Castner EPA Headquarters
 Jordan Dorfman EPA Headquarters
 Kit Farber EPA Headquarters
 Rick Green EPA Region 10
 Wendy Klinker EPA Region 7
 Jackie LeClair EPA Region 1
 Judy Novak EPA Region 7
 John O'Conner EPA Region 1
 Stephanie von Feck EPA Headquarters
 Cliff Yee EPA Headquarters
 Phil Zahreddine EPA Headquarters
 Jim Lord Region 1

State Workgroup Members (and Alternates)

Tim Banks (co-chair) FL Department of Environmental Protection
 Greg Mason (vice) GA Environmental Facilities Authority
 Mark Bennett AR Soil and Water Conservation Commission
 Julie Cunningham OK Water Resources Board
 Denise Dang HI Safe Drinking Water Branch
 Ron Drainer IL Environmental Protection Agency
 Al Farling DE Department of Natural Resources
 Jeff Freeman MN Public Facilities Authority
 Tom Griggs LA Environmental Technology Division
 Chip Heckathorn MI Department of Environmental Quality
 Paul Marchetti PA Infrastructure Investment Authority
 Anna Miller MT Conservation & Resource Development Division
 Nancy Parrillo MA Water Pollution Abatement
 Mike Perkovich SD Division of Financial & Technical Assistance
 Ramona Rael NM Environmental Department
 Jay Rutherford VT Department of Environmental Conservation
 Shara Stelling WA Department of Ecology

Other Attendees

Jason Bodwell GEFA
 Rudd Coffey The Cadmus Group
 Sid Curnow UT DEQ
 Mary Claire D'Andrea NJ EIT
 Donna Davis CO SRF
 Leo Drozdoff NV DEP
 David Feener AR
 Jim Flaherty NY EFC
 Rod Geisler KS DHE
 Bob Holmden FL
 James Kay Kendall CA SWRCB
 Mark Kellett Northbridge
 Jack Kirkland CO WQCD
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 Victoria Okamira HI SRF
 Sharon Dixon Peay CT CWF/DWF
 Rollo Paul AK DEC
 Ronald Poole AL
 Roberto Reyes-Colon OR DHS
 Kelli Rice KY DEP
 John Schnickel MN DOH
 Jay Spector AZ WIFA
 Steve Townley MO EIARA
 Jennifer Tsuha HI SRF
 Dave Waldo KS DHE
 Sandy Williams KY Infrastructure Authority
 Gary Yamamoto CA DHS