



February 11, 2022

The Honorable Radhika Fox  
Assistant Administrator  
Office of Water  
U.S. Environmental Protection Agency  
1204 Constitution Ave. NW  
Washington, DC 20004

Dear Assistant Administrator Fox,

On behalf of the nation’s largest publicly owned drinking water systems, AMWA appreciates EPA’s ongoing effort to develop guidance for implementation of the Bipartisan Infrastructure Law (BIL). As you know, AMWA supported passage of this landmark legislation and its infusion of nearly \$50 billion for the State Revolving Funds (SRFs) and initiatives to replace lead service lines and address emerging drinking water contaminants like PFAS.

As EPA formulates guidance related to the distribution of the law’s SRF dollars, we urge the agency to maximize the opportunities for states and municipalities to spend funds in a way that delivers the most benefit to low-income households and communities. This approach would be consistent with the Biden Administration’s Justice40 Initiative, as well as the law’s direction to distribute 49 percent of the SRF funds as grants or principal forgiveness loans.

Specifically, we believe EPA’s guidance must clarify which entities are eligible to receive this set-aside of grant and principal forgiveness funding. Division J, Title VI of the BIL specifies that 49% of the Drinking Water and Clean Water SRF appropriations provided through the measure for public health projects and lead service line replacements, and all of Drinking Water SRF appropriations provided to address emerging contaminants, must go to “eligible recipients” in the form of additional subsidy such as grants or 100% principal forgiveness loans. But because the BIL does not define the term “eligible recipients,” EPA’s guidance needs to clarify which entities are eligible to benefit from this funding.

To maximize considerations of equity and the provision of assistance to a wide range of low-income communities and ratepayers, AMWA urges EPA to define “eligible recipients” as any community water system or treatment works that is eligible to receive SRF aid, and which will use these grant or principal forgiveness loan funds on projects that will significantly benefit low-income communities.

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Importantly, EPA should not simply rely on the Safe Drinking Water Act's definition of a "disadvantaged community" when identifying the universe of water systems that may be eligible for this additional subsidy. The SDWA section 1452(d)(3) definition of "disadvantaged community" is limited to "the service area of a public water system that meets affordability criteria established ... by the State in which the public water system is located." In practice, many states apply this definition in such a way as to focus on small and rural water systems with relatively uniform income demographics, as opposed to metropolitan utilities whose service area includes both low-income neighborhoods and more affluent areas. This means that the metropolitan water systems in many states, despite serving significant numbers of minority and low-income households, are ineligible for additionally subsidized DWSRF funds provided through regular appropriations.

Similarly limiting the additionally subsidized BIL SRF dollars to only these state-defined disadvantaged communities would exacerbate inequities, as metropolitan utilities in some states would be eligible for the funding while similar metropolitan utilities in other states would be excluded. Instead, it would be much more equitable for EPA to broadly define "eligible recipients" in the BIL as any community water system or treatment works, thus making a wide range of communities with different demographic profiles eligible to compete for the funds. This should be accompanied by a requirement that, as a condition of accessing the 49% of funds set aside for additional subsidization, any utility must ensure that those BIL funds are spent on projects that significantly benefit low-income communities or ratepayers in the service area. This will deliver benefits to low-income areas that do not fall within traditionally defined "disadvantaged communities," but also will not preclude those communities from receiving funds.

The BIL represents a major infusion of funding for drinking water and wastewater infrastructure, and we applaud the Biden Administration's prioritizing the delivery of funds to low-income and/or disadvantaged communities. AMWA believes this objective can best be attained by allowing a broad universe of water systems with these underserved populations to access the additionally subsidized funds set aside for "eligible recipients."

Thank you again for your efforts to develop this guidance, and your dedication to assisting low-income communities. AMWA looks forward to continuing to work with you on this important issue.

Sincerely,



Diane VanDe Hei  
Chief Executive Officer

cc: Michael Regan, U.S. EPA  
Jennifer McLain, U.S. EPA  
Andrew Sawyers, U.S. EPA