



February 3, 2020

via email: commentletters@waterboards.ca.gov

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Re: Comments on the Draft *Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund*

Dear Ms. Townsend:

Thank you for the opportunity to provide comments on the Draft *Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund* (Policy).

Since being elected to the Coachella Valley Water District (CVWD) Board of Directors in 2014, I have made providing safe drinking water to Disadvantaged Communities (DAC) my top priority. I am pleased to serve as a representative on the Safe and Affordable Drinking Water Task Force. I was a part of the creation of the Coachella Valley Disadvantaged Communities Infrastructure Task Force, a stakeholder-driven group led by CVWD to secure access to safe and affordable drinking water, wastewater and flood control services in historically disadvantaged Coachella Valley.

Over the course of the last two years and the development of this legislation, I have been called upon many times to testify or provide expertise regarding various versions of the safe and affordable drinking water legislation. I am extremely grateful CVWD's perspective was taken into consideration during this process and I hope to continue to provide that insight.

CVWD is also submitting comments on the Policy, but I reiterate those points below.

- 1. Technical Assistance should be available to agencies, such as CVWD, to permit them to carry out activities such as contract management for engineering and coalition building. Furthermore, technical assistance funding could be combined with "planning" to create one category of funding.**

CVWD recognizes it is in a unique position. CVWD has the technical capability to manage contracts with outside engineers, and to support the local not-for-profit community in its coalition building efforts. Because the consolidation projects outlined in the ECVWSP envision connecting small projects to the CVWD system, allowing CVWD to manage those design contracts is logical and more efficient than disbursing money to a small not-for-profit that would then turn to CVWD for further technical guidance. The technical assistance funding should not only be available to small organizations that may not have access to engineers and technical experts, but to the large agencies and special districts that *are* capable of doing the technical work.

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Technical assistance should be defined to include broader work categories for which an entity may apply. Alternatively, the planning and technical assistance funding could be combined into one category that would allow agencies like CVWD the flexibility to achieve the necessary tasks to realize successful project completion.

2. Funding should include money for coalition building and for community outreach and be granted to agencies focusing on consolidation, such as CVWD.

One challenge CVWD faces when applying for additional funding for the consolidation projects in the ECVWSP is the lack of executed consolidation agreements. The ECVWSP is grouped into “projects;” each of which consolidates anywhere from two to more than 10 small water systems. In order to be deemed eligible for certain types of funding, the state has previously required executed consolidation agreements from the owners/operators of the small systems.

The Policy should permit planning or technical assistance funding to secure these consolidation agreements, *and* permit other elements of the project, like funding for additional design and environmental compliance, where necessary, to proceed.

During a meeting with staff from the Water Board on January 21, 2020 at CVWD, staff were encouraged to hear that the Water Board is considering waiving fully executed consolidation agreements as an eligibility requirement for some types of grants. A preliminary “letter of intent” should be sufficient to allow design and environmental compliance to proceed.

3. Grants for activities traditionally categorized as planning activities should not have a funding limit. Alternatively, the current limit of \$500,000 should be raised significantly.

There currently exists a \$500,000 ceiling on planning grants issued by the Water Board. CVWD strongly recommends this limit be removed or raised significantly. As mentioned in Comment 2 above, the planning funding logically should also be used for coalition building. Hiring community contractors to secure consolidation commitments has the potential to use much of the funding that was meant to be used for initial design phases and early environmental compliance work. CVWD is also considering combining projects to achieve more expedient results and consolidations. However, combining projects will increase planning costs.

4. CVWD strongly recommends the Water Board establish a schedule for the approval and disbursement of funds. If the Water Board fails to maintain the schedule, CVWD advocates for a “correction” in the form of a scoring advantage in future applications.

CVWD has experienced significant delays in receiving funding agreements for three projects in the eastern Coachella Valley serving disadvantaged community (DAC) areas. These delays have been caused by a variety of factors; the Water Board staff changed the source of funding on several occasions, which triggered the need for additional environmental compliance tasks and studies and for the funding agreements to require redrafting. These delays have set eventual project construction back by at least two years.

CVWD is strongly requesting the Water Board set a schedule and carry the burden of responsibility for committing to it.

CVWD encourages the Policy award additional points during the scoring process for subsequent applications submitted by an entity that has experienced a delay in receiving the completed funding agreement or actual funds from the Water Board. Some alternative penalty imposed on the Water Board would also achieve the same goal: creating an incentive for Water Board staff to work efficiently to ensure work is complete on the originally established schedule.

CVWD recommends the following language addition, as a second paragraph, to “Section X. Responsibilities of the Division of Drinking Water (DDW) and Division of Financial Assistance (DFA)” on current page 10:

The Deputy Director of the Division of Financial Assistance, or designee, shall establish a schedule for moving a grant from receipt through to final award. The schedule will include reasonable time for staff to conduct technical and legal reviews. In the event DFA fails to comply with the deadlines set by the schedule established by the Director of Financial Assistance, the grantee suffering the delay(s) shall be awarded a scoring advantage in the subsequent grant application it submits.

5. Once an application has been submitted and logged within the Water Board’s system, application requirements should not be altered, unless required by statute.

The delays CVWD has experienced in receiving executed funding agreements have been due to the Water Board’s change in application requirements after final submittal of an application package. Further delays were also caused after an alternate funding source was identified, which required additional compliance activities.

While CVWD appreciates that federal funding sources trigger additional requirements, the Water Board’s seemingly arbitrary decision to change application requirements after an applicant has completed all previously necessary steps is unacceptable. Once an application is complete it should be exempt from any future application changes, barring a statutory condition. The arbitrary amendment of application forms and requirements to comply with new forms delays project implementation and does not help the communities in need.

Language should be added to “Section X. Responsibilities of the Division of Drinking Water (DDW) and Division of Financial Assistance (DFA)” on current page 10 as follows:

Following the Division of Financial Assistance notifying an applicant of a complete application, additional application requirements will not be imposed, unless required by a change in law. Changes to funding sources should not be made so as not to invoke federal compliance requirements for an application that has not already completed such elements. This will ensure a smooth and timely process for the recipient and allow budgets and workloads to be properly allocated.

- 6. CVWD recommends adding text to “Section XI.F. The Safe and Affordable Drinking Water Fund Solution List” to clarify that grantees may apply for substantial funding to carry out multiple projects in a planned consolidation. The Policy should also clearly state that an agency/entity may have multiple active grant applications and/or funding agreements in place at the same time.**

While a “belt and suspender” approach is not usually advised, a clarifying statement for guiding future Fund Expenditure Plans is prudent to ensure entities are not penalized for submitting multiple grant applications for multiple funding cycles. The Water Board should take steps in the Policy to ensure full funding of multiple phases of a project, and not inadvertently “penalize” applicants in an effort to avoid the optics of favoritism.

CVWD recommends the following language be added to the first paragraph in Subsection F on the current page 14:

A wide range of projects and activities are eligible for funding through the Fund. The fund expenditure plan will identify projects, activities and costs as well as ineligible costs. **Entities or agencies that have completed prior planning phases for consolidation or other work that will lead to long-term, sustainable compliance may be eligible for substantial grant awards, which may be used to complete myriad phases of the consolidation in sequence. Additionally, agencies will be permitted to have more than one active funding agreement in place at a time and continue to be eligible for future grant awards.**

- 7. The Policy should clearly state there are no funding match requirements for applicants.**

Because of the limitations Proposition 218 places on water districts, if a funding match were to be required for any grants made through the Safe and Affordable Drinking Water Fund, entities would need to secure additional grant monies or loans. This requirement would be contrary to the purpose of the fund established in SB200 (2019). Historically, the Water Board has issued funding match waivers for projects that serve DACs and CVWD strongly recommends this practice continue and be explicitly stated in the Policy.

The following sentence should be added to “Section IX. Funding Terms and Conditions”: **“There are no requirements for matching funds to be eligible for grants through the Fund.”**

- 8. The Policy should clearly indicate on-site connection costs are eligible for funding.**

CVWD has received several grant awards from the Water Board to assist DACs and to consolidate with the main CVWD system. One of the issues CVWD faced was the possibility that small water systems would not be able to afford the on-site connection costs associated with moving the water supply from the system main to the individual dwelling units. The Water Board has funded these costs, and worked with CVWD and its consultant to expand the project scope on several construction projects to bring the costs per connection down significantly. CVWD strongly recommends the Policy include this type of work as eligible to receive money from the Fund and include a statutory citation (CVWD believes Health

& Safety Code §116766(a)(5) provides sufficient breadth). This item should be added to the list of possible funding purposes in the third paragraph on page 2.

The Fund may be used for various types of assistance for disadvantaged communities, voluntary participants, and Public Water Systems (PWS) with demonstrated failure or risk of failure, including but not limited to projects that: ... (5) consolidate systems, **including the costs associated with on-site connections**; and (6) fund operation and maintenance for disadvantaged and low-income communities.

9. CVWD recommends the inclusion of the required prioritization for the funding expenditure plan.

Health and Safety Code 116769(c) provides the required prioritization for the Fund expenditure plan, which is critical information as drinking water needs are identified and funding is then to be administered and prioritized. On Pages 10-11 in the Policy under “XI. Fund Expenditure Plan Development,” a new Section B should include the following:

B. Fund Expenditure Plan Priorities

In addition to building on the drinking water needs assessment, consistent with Health and Safety Code 116769(b), the fund expenditure plan must prioritize funding for all of the following:

- (1) Assisting disadvantaged communities served by a public water system, and low-income households served by a state small water system or a domestic well.
- (2) The consolidation or extension of service, when feasible, and administrative and managerial contracts or grants entered into for Administrators [pursuant to Section 116686] where applicable.
- (3) Funding costs other than those related to capital construction costs, except for capital construction costs associated with consolidation and service extension to reduce the ongoing unit cost of service and to increase sustainability of drinking water infrastructure and service delivery.

This addition provides the clear statutory prioritization of the fund expenditure plan for further development. The current Section B and all other subsequent sections under XI. Fund Expenditure Plan Development should be re-numbered (e.g. the next section would be C. Drinking Water Needs Analysis).

10. “Section II: Purpose and Objective” should be reorganized so that the purpose of the Policy is first and the purpose of the SAFER program follows.

This organizational change is recommended because the purpose of the document being discussed should come prior to describing other items the Policy implements. CVWD recommends moving the fourth paragraph up to be the first paragraph in the section and re-drafting the first sentence to reference SB200 (Monning 2019).

In closing, I thank the Water Board for the valuable opportunity to provide comments on the draft Policy. If you have questions regarding the comments, you may contact the CVWD's Government Affairs Specialist, Kristen Johnson, at (760) 398-2661 ext. 3564 or kjohnson@cvwd.org or you may email me directly at cestrada@cvwd.org. I look forward to continued engagement with the Water Board on the development of the Policy and the Fund Expenditure Plan through the Task Force.

Sincerely,



Cástulo R. Estrada
Vice President
Director, Division 5