



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Enhanced Coordination Needed to Ensure Drinking Water State Revolving Funds Are Used to Help Communities Not Meeting Standards

Report No. 12-P-0102

December 1, 2011



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Report Contributors:

Janet Kasper
Khadija Walker
Melinda Burks
Kimberly Crilly
Claire McWilliams
LaTanya Scott

Abbreviations

DWNIMS	Drinking Water National Information Management System
DWSRF	Drinking Water State Revolving Fund
EPA	U.S. Environmental Protection Agency
FY	Fiscal year
IUP	Intended use plan
OIG	Office of Inspector General
PER	Program Evaluation Report
PWSS	Public Water System Supervision
SDWA	Safe Drinking Water Act, as amended in 1996
SDWIS	Safe Drinking Water Information System

Cover photo: Treated drinking water from a faucet. (EPA photo)

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At a Glance

Why We Did This Review

Congress created the Drinking Water State Revolving Fund (DWSRF) program to assist public water systems with upgrading infrastructure to ensure the continued provision of safe drinking water. The fund requires states to give priority to projects needed to protect public health and ensure compliance with the Safe Drinking Water Act (SDWA), especially in locations with great economic need and the most serious health problems. We sought to determine whether DWSRF funds are effectively used to assist communities that do not meet standards.

Background

Congress established the DWSRF program in the 1996 amendments to SDWA. The goal of the DWSRF program is to provide states with the means to establish a revolving fund to provide low-cost loans to public water systems, and other funding through set-asides, to further public health protection under SDWA. In fiscal year 2010, the U.S. Environmental Protection Agency (EPA) allotted \$1.36 billion for state DWSRF programs.

For further information, contact our Office of Congressional and Public Affairs at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2012/20111201-12-P-0102.pdf

Enhanced Coordination Needed to Ensure Drinking Water State Revolving Funds Are Used to Help Communities Not Meeting Standards

What We Found

The DWSRF program is not taking full advantage of the data and tools that are available to identify noncompliant systems that may benefit from DWSRF funding. Although EPA and the states use DWSRF funds to assist communities in achieving or maintaining compliance with drinking water standards, some high-priority systems were not aware of the DWSRF program. SDWA requires that funding priority be given to projects that address the most serious risk to human health, are necessary to ensure SDWA compliance, and assist systems most in need. However, noncompliance by some community systems with the highest number of health-based violations is being resolved through other means, such as through consolidation with other systems, enforcement actions, technical assistance, or other funding sources. One EPA region and two states we reviewed stated that EPA does not have discussions with states about specific systems in violation of SDWA when reviewing state intended use plans and project priority lists, or when conducting annual reviews. The EPA DWSRF program should encourage enhanced coordination with enforcement programs and use available Agency enforcement data and tools to identify noncompliant systems that may benefit from DWSRF funding. These actions would assist in achieving the Agency's strategic objective of making water safe to drink.

What We Recommend

We recommend that the Assistant Administrator for Water include in the annual regional review of states checklist an assessment of the coordination between state DWSRF and enforcement programs. We also recommend that the Assistant Administrator create a national intended use plan review checklist that includes a requirement to assess coordination between state DWSRF and enforcement programs. Further, we recommend that the Assistant Administrator identify and implement actions to enhance coordination between regional and state DWSRF and Public Water System Supervision programs. EPA agreed with all of our recommendations and provided milestone dates for each recommendation.




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

THE INSPECTOR GENERAL

December 1, 2011

MEMORANDUM

SUBJECT: Enhanced Coordination Needed to Ensure Drinking Water State Revolving Funds Are Used to Help Communities Not Meeting Standards
Report No. 12-P-0102

FROM: Arthur A. Elkins, Jr. 
Inspector General

TO: Nancy Stoner
Acting Assistant Administrator for Water

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends.

Action Required

In responding to the draft report, the Agency provided a corrective action plan with milestone dates for addressing the recommendations. Therefore, a response to the final report is not required. The Agency should track corrective actions not implemented in the Management Audit Tracking System. We have no objections to the further release of this report to the public. The report will be available at <http://www.epa.gov/oig>.

If you or your staff have any questions regarding this report, please contact Melissa Heist at (202) 566-0899 or heist.melissa@epa.gov, or Janet Kasper at (312) 866-3059 or kasper.janet@epa.gov.

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Purpose

Congress created the Drinking Water State Revolving Fund (DWSRF) program to assist public water systems with upgrading infrastructure to ensure continued provision of safe drinking water. The program requires states to give priority to projects that address immediate risks to human health, are needed to ensure Safe Drinking Water Act (SDWA) compliance, and assist systems most in need. We sought to determine whether DWSRF funds are effectively used to assist communities that do not meet standards.

Background

Congress established the DWSRF program in the 1996 amendments to the SDWA. The goal of the DWSRF program is to provide states (a) the means to establish a revolving fund to provide low-cost loans to public water systems, and (b) other funding through set-asides to further public health protection under the SDWA. In fiscal year (FY) 2010, the U.S. Environmental Protection Agency (EPA) allotted \$1.36 billion for state DWSRF programs.

EPA conducts an annual review of each state's program to evaluate the effectiveness of the DWSRF program's operations and to develop guidelines necessary to assure effective program management. EPA allots funding to the states based on need, in accordance with the SDWA. Need is assessed every 4 years through EPA's Needs Assessment Survey. Each fiscal year, EPA regions review and approve the state ranking systems, intended use plans (IUPs), and project lists to ensure compliance with the SDWA. At the end of the year, EPA regions perform annual reviews of the state programs and document these reviews in Program Evaluation Reports (PERs) that summarize findings. Periodically, EPA's Office of Water in headquarters reviews regional oversight of state programs.

EPA's 2011–2015 Strategic Plan states that, “by 2015, 90% of community water systems will provide drinking water that meets all applicable health-based drinking water standards through approaches including effective treatment and source water protection.” This plan promotes (a) the construction of infrastructure that brings safe drinking water into the homes of small, rural, and disadvantaged communities; and (b) increased efforts to guard the nation's critical drinking water infrastructure. EPA and states use the DWSRF to fund infrastructure construction.

States are responsible for setting state funding priorities, developing the ranking criteria for project selection, and ranking the projects based on priority. States provide loans and other types of assistance to eligible water systems to finance the costs of infrastructure projects needed to achieve or maintain compliance with SWDA requirements. State DWSRF programs are annually required to develop an IUP that lists the projects eligible for DWSRF loans and the projects it plans to fund. SDWA Section 1452(b)(3)(A) states that, to the maximum extent

practicable, an IUP shall give priority for the use of DWSRF funds to projects that:

- Address the most serious risks to human health
- Are necessary to ensure compliance with SDWA requirements
- Assist systems most in need on a per-household basis according to state affordability criteria

The *Drinking Water State Revolving Fund: Program Operations Manual* states that programs must include two priority lists with each IUP. The comprehensive priority list includes all projects that are eligible for program assistance and have submitted a preapplication for priority listing. The fundable project list identifies projects expected to receive assistance in the upcoming year. The annual state IUP must also include details on the state's priority ranking system.

SDWA Section 1420 capacity development provisions provide a framework for states and water systems to work together to ensure that systems acquire and maintain the technical, managerial, and financial capacity needed to meet the Act's public health protection objectives.

Noteworthy Achievements

The project priority ranking systems for the states we reviewed—Missouri and Oregon—complied with the SDWA requirement that funding priority be given to projects that address the most serious risk to human health, are necessary to ensure compliance with SDWA requirements, and assist systems most in need. For FY 2010, the states we reviewed ranked the projects in accordance with established project priority ranking system criteria. EPA's DWSRF reporting system shows that nationally for FY 2010, 82 percent of DWSRF infrastructure funding went to projects to bring drinking water systems into compliance and to assist systems to maintain compliance with drinking water standards and other requirements of the SDWA.¹ Through the DWSRF set-asides, the states can also conduct outreach and provide technical and capacity development assistance to drinking water systems, including small and disadvantaged communities. For the fiscal years we reviewed, we found that Oregon intended to use 30 percent and Missouri intended to use the full 31 percent of federal capitalization grant funds for such activities.

Scope and Methodology

We conducted this performance audit from February to November 2011 in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a

¹ The audit did not verify the data for accuracy, as it was not part of the scope of the review.

reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We selected two states to review—Missouri and Oregon—based on the highest percentage of systems in violation of health-based standards and the total population served that was listed in the Safe Drinking Water Information System (SDWIS) for 2008 and 2009.² We used the highest number of SDWIS violations because we believe systems with the most violations are also likely in need of technical, financial, and managerial capacity. For the two states, we interviewed state DWSRF and Public Water System Supervision (PWSS) staff; reviewed supporting documentation for a sample of projects from the state project priority lists; and compared comprehensive and fundable project lists to SDWIS inventory and violations data. To assess internal controls, we obtained data from the Drinking Water National Information Management System (DWNIMS) and reviewed the Agency’s quality assurance plans or procedures associated with both SDWIS and DWNIMS. We did not assess the reliability of the data in SDWIS or DWNIMS, because we did not rely on those data to form our conclusions and recommendations.

We reviewed the relevant federal law, regulations, and guidance. We interviewed EPA staff from the Office of Water, Office of Enforcement and Compliance Assurance, and Regions 7 (for Missouri) and 10 (for Oregon) regarding the EPA IUP approval process, annual review process, and EPA influence over state project selection. There are 51 DWSRF programs, for 50 states and Puerto Rico.³ We analyzed the 51 most recently completed regional PERs and associated checklists to assess any relevant trends identified in EPA’s annual reviews of DWSRF programs.⁴

There were no prior audits related to our objective.

Increased Coordination Needed Between DWSRF Programs and Enforcement

EPA and the states use DWSRF funds to assist communities that do not meet drinking water standards and to assist other communities in maintaining compliance with drinking water standards. Noncompliance by some community systems with the highest number of health-based violations is being resolved through other means, such as through consolidation with other systems, enforcement actions, technical assistance, or other funding sources. Some of these

² The audit team used SDWIS data. SDWIS captures violation data at particular points in time, so the nature of the violations may have changed over time.

³ Washington, DC, is not included in the count of traditional DWSRF programs. EPA does not complete a PER for Washington, DC.

⁴ As of May 6, 2011, Region 2 did not complete a checklist for New Jersey. The most recently completed PERs and checklists were for FY 2009.

systems were not always aware of the DWSRF program. SDWA requires that funding priority be given to projects that address the most serious risk to human health, are necessary to ensure SDWA compliance, and assist systems most in need. The EPA regions we reviewed did not have discussions with states about specific systems in violation of SDWA when reviewing state IUPs and project priority lists, or when conducting annual reviews. While it is encouraging that systems with the highest number of health-based violations are resolving their problems, enhanced coordination between EPA and the states, when considering available funding, would further support the best use of DWSRF funds to achieve the Agency's strategic objective of making water safe to drink.

DWSRF Funds Used to Assist Noncompliant Systems

DWSRF funding assists drinking water systems that do not meet drinking water standards in several different ways:

- **DWSRF Infrastructure Loans:** EPA's DWSRF program tracks DWSRF funding nationally and by state through the DWNIMS. States report to the DWNIMS database annually. The DWNIMS data show that nationally for 2010, 82 percent of DWSRF infrastructure funding went to projects to bring drinking water systems into compliance (29 percent) and to assist systems to maintain compliance (53 percent) with the SDWA, contributing to the Agency's Strategic Plan "water safe to drink" subobjective.
- **DWSRF Set-Aside Funding:** The SDWA allows states to use up to 31 percent of each federal capitalization grant for various activities. States can use the funds to provide drinking water systems with technical, financial, and managerial assistance that they may need to achieve or maintain compliance.

Our review found that Missouri and Oregon rank projects according to priorities set forth in the SDWA. The project priority ranking systems for the states we reviewed complied with the SDWA requirement that funding priority should be given to projects that (1) address the most serious risk to human health, (2) are necessary to ensure compliance with SDWA requirements, and (3) assist systems most in need. The states we reviewed ranked their projects in accordance with those approved project priority ranking systems.

Some Systems With Highest Number of Violations Not Applying for DWSRF Funding

DWSRF infrastructure loans are not the only tool in addressing systems with the highest number of SDWA violations. According to the Office of Water, the number of violations that a system has does not necessarily equate to an infrastructure need. Systems fail to meet standards for a variety of reasons, some of which are not amenable to resolution through DWSRF funding. For cases in

which noncompliance is related to managerial or operational deficiencies, consolidation, enforcement actions, or other options may be considered. Further, some systems did not have contact with the state DWSRF program. However, EPA stated that systems with the highest number of violations may be best served by technical assistance rather than capital financing. If a state can use other methods to bring a system back into compliance more quickly than capital financing, the Office of Water encourages those methods.

States are funding systems with violations, but not necessarily the systems with the highest number of violations. In the two states we reviewed—Missouri and Oregon—our comparisons between the SDWIS list of the top systems with health-based violations and the state FY 2010 comprehensive lists and fundable lists showed that not all systems with the highest number of violations were on the states’ latest fundable lists, as shown in table 1.

Table 1: Comparison of SDWIS lists to comprehensive and fundable lists

State	SDWIS list of systems with most health-based violations 2008–2009	No. of those systems on federal FY 2010 comprehensive list	No. of those systems on federal FY 2010 fundable list
Missouri	20	4	0
Oregon	16	0	0 ^a

Source: OIG analysis of systems with most violations in FYs 2008–2010 SDWIS compliance data compared to state comprehensive and fundable lists associated with FY 2010 capitalization grant.

^a Five of the 16 systems were funded by the DWSRF program in a prior fiscal year for unrelated issues.

The systems that we identified as having the most violations had between 1 and 14 violations during 2008 and 2009, some of which could have long-term health effects. For example, prolonged exposure to violations of the total coliform rule can result in gastrointestinal illness and viruses; long-term exposure to arsenic can cause bladder, lung, and skin cancer. Total coliform and arsenic were among the violations identified in SDWIS for the systems with the most violations.

In Missouri, of the 20 systems that had the highest number of violations in SDWIS for 2008–2009, 14 systems did not submit an application for a DWSRF loan. Most of the 14 systems resolved the violations by getting funding from other sources, but 3 of those 14 could not get the financial backing to support a DWSRF loan. Of the six cases that applied for a DWSRF loan, one could not get the financial backing for a DWSRF loan and the rest resolved the violations in other ways. Table 2 summarizes the 20 systems in Missouri.

Table 2: Missouri systems analysis

Reasons for systems not receiving FY 2010 DWSRF funding	No.
No application; problem was resolved by private or state funding	5
No application; problem being addressed by state or EPA enforcement action	4
No application; systems could not get financial backing for a loan (i.e., bonds)	3
No application; project funded by the U.S. Department of Agriculture	2
Submitted application; problem resolved by consolidating with another system	2
No application for FY 2010, but have since submitted an application; under state DWSRF consideration for funding	1
No application for FY 2010, but engineer plans to submit application in a later year	1
Submitted application; system cannot get financial backing	1
Submitted application; project was able to be funded by American Recovery and Reinvestment Act of 2009 DWSRF funds	1
Total	20

Source: Responses from Missouri DWSRF staff or enforcement (PWSS) staff.

In Oregon, of the 16 systems that had the highest number of violations in SDWIS for 2008–2009, 8 systems did not submit an application for a DWSRF loan. Most of those eight systems were able to identify other sources of funding. The remaining eight systems submitted loan applications to the DWSRF state program; they were funded either by DWSRF in another fiscal year or by the American Recovery and Reinvestment Act of 2009 for unrelated reasons. Table 3 summarizes the 16 systems in Oregon.

Table 3: Oregon systems analysis

Reasons for systems not receiving FY 2010 DWSRF funding	No.
No application; no contact with state DWSRF program, or problem resolved by private funding or state capital improvement funds	5
No application for FY 2010; received DWSRF funding in another fiscal year	5
Submitted application; project funded by American Recovery and Reinvestment Act of 2009 DWSRF funds	3
No application; aware of DWSRF program, problem resolved with private funds	1
No application for FY 2010; previous problem resolved by technical assistance, recently submitted application; under state review for additional work that will require capital investment	1
No application; system is now inactive	1
Total	16

Source: Responses from Oregon DWSRF staff or enforcement (PWSS) staff, and enforcement database review.

A state can encourage noncompliant systems to submit Letters of Intent to the state DWSRF program. Once the community chooses to submit a letter, the state must rank the project above the funding line for that fiscal year, and then offer the community the option to submit an application. Once the community submits an

application to apply for the DWSRF loan, the state can review and rank the project to compile the state's project priority list. In Missouri, the state issues a notice informing the public of the availability of DWSRF loan applications, and individual notifications are sent to all city water systems and water districts, as well as engineering firms, in the state. In Oregon, the state has established an outreach program to assist public water systems in developing technical, managerial, and financial capacity. However, the state said that the DWSRF capacity development program does not target systems that have the highest number of violations. As noted, of the eight systems with the highest number of violations that did not apply for DWSRF funding in Oregon, five systems did not have any contact with the DWSRF program.

Annual Reviews Do Not Assess State DWSRF Coordination With Enforcement

EPA annual reviews of state programs do not always assess whether the DWSRF program is coordinated with the state's water enforcement or PWSS program. The annual review checklist of the states does not contain specific questions relating to coordination between the offices, and only 31 percent of the state performance reports indicated that the issue was addressed during the annual review.

SDWA requires coordination between the DWSRF and enforcement programs. SDWA Section 1452(g)(1)(B) requires that the authority to establish assistance priorities and carry out oversight and related activities remain with the primary agency, after consultation with other appropriate state agencies. The enforcement program analyzes information regarding the compliance status of drinking water systems. A system that is not complying with drinking water standards may need a DWSRF loan to make improvements to the system in order to come into compliance. In other cases, noncompliance can be addressed through consolidation with larger systems or enforcement actions at the state or EPA level.

The EPA annual review checklist does not include a question about whether the state DWSRF program coordinates with state enforcement staff regarding systems in noncompliance when selecting projects for DWSRF funding. The checklist does include the following two questions:

- Does the state have adequate procedures to ensure that systems in significant noncompliance with any national primary drinking water regulation are receiving funds only to achieve compliance?
- Are set-aside funding activities coordinated with the overall goals of the state's public drinking water program?

The annual review checklist does not include a review of coordination between state DWSRF and enforcement programs in relation to project selection for

DWSRF funding. Adding a specific checklist question to address this coordination would help to ensure that the region, state DWSRF, and PWSS programs enhance coordination to focus on achieving the Agency’s strategic “water safe to drink” subobjective.

Our review of the latest regional annual DWSRF PERs and related review checklists for all 51 DWSRF programs showed that 39 percent included comments on state project selection or ranking criteria in general, but little to no discussion on specific projects selected for funding or systems in noncompliance. Of the 51 PERs we reviewed, EPA regions made only three comments on meeting health-based standards. Further, some regions commented on the states’ selection of projects and coordination with the enforcement program, but most did not, as the checklist did not include specific questions about these areas. The PERs made positive comments to indicate that a state program was performing well in an area and negative comments to indicate that areas need improvement.

Table 4: PER results for 51 DWSRF programs

Comments category	Regional comments: positive	% of total 51 programs	Regional comments: negative	% of total 51 programs
Coordination with state enforcement/ PWSS/other state entities	16	31	0	0
Project selection/ranking criteria	15	29	5	10
Meeting health-based standards	2	4	1	2

Source: OIG analysis. Results only reflect PERs/checklists that contained comments related to the specific categories.

Region 7 did not have discussions with its states about specific systems shown as being in violation in the SDWIS database when reviewing IUPs and project priority lists, or when conducting annual reviews of the state programs. Because of this lack of discussion, EPA may be missing an opportunity to reach systems that the state could assist through the program. EPA and states should discuss systems that have not applied, and systems that possibly lack the capacity to apply, to assess ways they can prepare these systems for funding. Regions do not have a national IUP review checklist to use while approving state IUPs.

Enhanced Coordination Needed to Reach Some Systems With Highest Number of Violations

In a 2006 memorandum, the EPA Office of Water emphasized to regional staff a national priority for enhancing coordination between regional and state DWSRF and PWSS programs, to focus on achieving the Agency’s strategic “water safe to drink” subobjective.⁵ However, the Agency has not developed specific steps for regions to implement this priority.

⁵ Memorandum from Cynthia Dougherty, Director, Office of Ground Water and Drinking Water, to Water Division Directors, “National Priorities for the Drinking Water State Revolving Fund Program,” August 21, 2006.

The regions and states should improve coordination with enforcement programs when considering DWSRF projects for funding. A 2007 headquarters review of Region 7 recommended that the region consider improving the links between enforcement and the DWSRF program. From our discussions, it appears that Region 7 has improved its coordination efforts. The Region 7 drinking water and enforcement programs discuss the enforcement tool results and encourage the use of DWSRF funding where appropriate.

EPA enforcement staff has tools that could assist the Office of Water staff in identifying systems that may need assistance to comply with drinking water standards. For example, the EPA Office of Enforcement and Compliance Assurance has developed the Enforcement Targeting Tool to identify systems with SDWA violations and allow EPA to target those systems for enforcement or assistance. The EPA DWSRF program could use these Agency enforcement data and tools to identify noncompliant systems that may benefit from DWSRF funding.

Conclusion

The DWSRF program is not taking full advantage of the data and tools that are available to identify noncompliant systems that may benefit from DWSRF funding. DWSRF may never reach some communities with the highest number of health-based drinking water violations because these communities have no contact with the state DWSRF office and are not aware of the program; they do not have technical, managerial, or financial capacity; or they cannot afford a loan. We found that some systems with the highest number of health-based violations are resolving noncompliance through other means, illustrating that DWSRF infrastructure loans are not the only tool for addressing SDWA violations. One EPA region and two states we reviewed stated that EPA does not have discussions with states about specific systems in violation of the SDWA when reviewing state IUPs and project priority lists, or when conducting annual reviews. The EPA DWSRF program should encourage enhanced coordination with enforcement programs and use the available Agency enforcement data and tools to identify noncompliant systems that may benefit from DWSRF funding. These actions would assist in achieving the Agency's strategic "water safe to drink" subobjective.

Recommendations

We recommend that the Assistant Administrator for Water:

1. In the regional annual review checklist that supports the PER, include an assessment of the coordination between state DWSRF and enforcement programs.

2. Create a national IUP review checklist that includes a requirement for regions to assess how the state DWSRF programs take into consideration the needs of systems with multiple violations when developing the IUP and selecting projects.
3. To help achieve the Agency's strategic "water safe to drink" subobjective, identify and implement actions to enhance coordination between regional and state DWSRF and PWSS programs.

Agency Response and OIG Evaluation

EPA concurred with our recommendations and proposed the following corrective actions with a milestone date of March 31, 2012, to address these recommendations:

- EPA will amend the annual review checklist to include appropriate questions to assess the coordination between state DWSRF and enforcement programs.
- EPA will develop a national IUP review checklist that includes questions to facilitate regional assessment of how state DWSRF programs take into consideration the needs of systems with multiple violations, including current compliance status and actions underway to address compliance, when developing the IUP and selecting projects.
- EPA will amend the regional annual review checklist to include appropriate questions to assess the coordination between state DWSRF and PWSS programs.

In addition to the proposed corrective actions to address our recommendations above, EPA stated that its Office of Enforcement and Compliance Assurance coordinated closely with the Office of Water to provide a webinar on the Enforcement Targeting Tool to state counterparts in October 2011.

In responding to the draft report, EPA provided additional comments to the text of the report. We made the necessary changes to the report based on the comments.

The proposed actions meet the intent of the recommendations. EPA's complete response is in appendix A.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
1	9	In the regional annual review checklist that supports the PER, include an assessment of the coordination between state DWSRF and enforcement programs.	O	Assistant Administrator for Water	03/31/12		
2	10	Create a national IUP review checklist that includes a requirement for regions to assess how the state DWSRF programs take into consideration the needs of systems with multiple violations when developing the IUP and selecting projects.	O	Assistant Administrator for Water	03/31/12		
3	10	To help achieve the Agency's strategic "water safe to drink" subobjective, identify and implement actions to enhance coordination between regional and state DWSRF and PWSS programs.	O	Assistant Administrator for Water	03/31/12		

¹ O = recommendation is open with agreed-to corrective actions pending
 C = recommendation is closed with all agreed-to actions completed
 U = recommendation is unresolved with resolution efforts in progress

Agency Response to Draft Report

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

October 31, 2011

OFFICE OF WATER

MEMORANDUM

SUBJECT: Draft Report Project No. OA-FY11-0180
Enhanced Coordination Needed to Ensure Drinking Water State Revolving Funds
Are used to Help Communities Not Meeting Standards

FROM: Nancy K. Stoner
Acting Assistant Administrator for Water

TO: Melissa M. Heist
Assistant Inspector General for Audit

Thank you for the opportunity to comment on the draft report titled *Enhanced Coordination Needed to Ensure Drinking Water State Revolving Funds Are Used to Help Communities Not Meeting Standards*. The Drinking Water State Revolving Fund (DWSRF) is an important program that enables states to provide affordable loans to water systems for needed infrastructure improvements and also allows states to assist water systems in developing technical, financial, and managerial capacity and becoming sustainable. Office of Ground Water and Drinking Water (OGWDW) has coordinated with the Office of Enforcement and Compliance Assurance (OECA) in reviewing and commenting on the draft report. EPA concurs with the proposed recommendations and plans to address them as described below.

Regarding the draft findings as presented on the “At A Glance” page, EPA would like to emphasize that DWSRF funds may legally and appropriately be used to assist water systems in maintaining as well as in achieving compliance. Please see the attached technical comments for suggested wording. EPA also appreciates the effort that your office has made in the body of the draft to clarify that funding infrastructure through the Drinking Water State Revolving Fund (DWSRF) is not always the first or only answer to addressing water system non-compliance, and that the number of violations that a water system has does not necessarily equate to an infrastructure need.

Our planned completion dates for the recommendations are as follows:

1. **In the regional annual review checklist that supports the PER, include an assessment of the coordination between state DWSRF and enforcement programs.**
Response: OSWDW will amend the checklist to include appropriate questions to assess the coordination between State DWSRF and enforcement programs. This amendment to the checklist will be completed by March 31, 2012. The revised checklist will be used by the Regions for their State oversight visits thereafter. Starting with OGWDW reviews of regional DWSRF programs in 2012, OGWDW will increase emphasis on assessing regional progress in working with state to enhance coordination between state DWSRF and enforcement programs.
2. **Create a national Intended Use Plan (IUP) review checklist that includes a requirement for regions to assess how the state DWSRF programs take into consideration the needs of systems with multiple violations when developing the IUP and selecting projects.**
Response: OGWDW will develop a national Intended Use Plan (IUP) review checklist that includes a section of questions to facilitate regional assessment of how state DWSRF programs take into consideration the needs of systems with multiple violations, including current compliance status and actions underway to address compliance, when developing the IUP and selecting projects. The national IUP review checklist will be developed by March 31, 2012. The new IUP checklist will be used by the regions for review of capitalization grant award packages undergoing review thereafter.
3. **To help achieve the Agency’s strategic “water safe to drink” sub-objective, identify and implement actions to enhance coordination between regional and state DWSRF and PWSS programs.**
Response: On August 21, 2006 OGWDW issued a memorandum to the regions on “National Priorities for the Drinking Water State Revolving Fund” and one of the four national priorities identified was “enhancing coordination between regional and state DWSRF and Public Water Supply Supervision (PWSS) programs to focus on achieving the Agency’s strategic ‘water safe to drink’ sub-objective”. To ensure appropriate emphasis on this priority, OGWDW will amend the regional annual review checklist to include appropriate questions to assess the coordination between State DWSRF and PWSS programs. This amendment to the checklist will be completed by March 31, 2012. The revised checklist will be used by the Regions for their State oversight visits thereafter. OGWDW will also continue to emphasize this priority in its oversight of regional programs.

If you have questions, please contact Cynthia Dougherty at (202) 564-3750 or have your staff contact Charles Job, Infrastructure Branch Chief, at (202) 564-3941.

cc: Cynthia Dougherty
Janet Kasper
Lisa Lund
Mamie Miller
Edward Messina

Khadija Walker
Michael Mason
Marilyn Ramos

enclosure

Office of Ground Water and Drinking / Office of Water and
Office of Compliance and Enforcement Assurance
Joint Comments on OIG Project No. OA-FY11-0180 9/21/11 Draft Report

Page “At a Glance” first sentence: “EPA and the states use DWSRF funds to assist communities ~~that do not meet~~ **in achieving or maintaining compliance with** drinking water standards.”

Page 1, Line 3: “The program requires states to give priority to projects that are needed to protect public health and ensure compliance with the Safe Drinking Water Act (SDWA), especially those ~~with great economic need and the most serious health problems~~ **that address immediate risks to human health, are needed to ensure SDWA compliance or assist systems most in need on a per household basis.**”

Page 3, Line 14: Regarding the OIG report reference to SDWIS “compliance lists” –SDWIS contains data on violations (non-compliance) of water systems as well as water system descriptive data. We suggest that you use the terminology “inventory and violations data.”

Page 3, last paragraph, 1st sentence: “EPA and the state use DWSRF funds to assist communities ~~that do not meet~~ **in achieving or maintaining compliance with drinking water standards.**”

Page 3, next to last full sentence: The sentence contains the phrase “change this sentence to what is in the AGG.” This seems to be a typo and should be removed.

Page 4, line 5 to end of paragraph: The draft states that “while it is encouraging that systems with the highest number of health-based violations are resolving their problems, enhanced coordination between EPA and the states, when considering available funding, would increase the likelihood that systems with the highest number of health-based violations receive DWSRF funds as needed. This would ensure the best use of DWSRF funds and that the Agency’s strategic objective of making water safe to drink is achieved.” These statements imply that a water system with a high number of violations needs capital to address the source of the violations when such a system may be better served through technical assistance such as through a DWSRF set-aside. States may have more expedient and effective means to return systems to compliance or may find that funds are best used to assist systems in maintaining compliance to achieve the strategic objective of ensuring that water is safe to drink. We also have concerns about the use of “highest number of health-based violations” as the sole metric to identify the most serious non-compliance. The Enforcement Targeting Tool (ETT), which has been the Agency’s enforcement priority setting tool for over a year, is based on a combination of various factors including the number of violations at a system, the type of violations and how long the violations have been unaddressed when determining the seriousness of non-compliance. We recommend amending the draft to say that “while it is encouraging that systems with the highest number of health-based violations are resolving their problems, enhanced coordination between EPA and the states, when considering available funding, would ~~increase the likelihood that systems with the highest number of health-based violations receive DWSRF funds as needed. This would ensure~~ **further support** the best use of DWSRF funds ~~and that~~ **to achieve** the Agency’s strategic objective of making water safe to drink ~~is achieved.~~”

Page 5, first full paragraph: The report notes that “States are funding systems with violations, but not necessarily the systems with the highest number of violations.” However, systems with the highest number of violations may not be best served by capital financing but rather by technical assistance. If a state can use other methods to bring a system back into compliance more quickly than capital financing, those methods are encouraged.

Page 5-6: The report summarizes the relationship of DWSRF applications by water systems in MO and OR relative to other sources of funding and problem resolution for water systems looked at in the two states. Tables 2 and 3 indicate that all the water systems looked at were able to resolve the problems through the DWSRF, financing through other sources or closing the system in all but one out of 36 such systems. The key point from a public health perspective is that resolution was achieved in nearly all cases regardless of the source of financing. The DWSRF is not intended to provide financing to every water system needing capital investment to address supplying safe water. The tables show that there are alternative paths to resolution of health issues at water systems and one of them is the DWSRF.

Page 8, last full paragraph: This paragraph focuses on the lack of discussions by Region 7 with States to address specific systems and their financing need. Again, the selection of water systems to receive financing is a state function guided by the scoring and ranking based on the 3 factors specified in the SDWA.

Pages 8 bottom and 9 top: The report suggests that EPA has not developed specific steps relating the DWSRF to the PWSS program for Regions to address the priority of the Agency’s strategic “water-safe-to-drink” sub-objective. The Agency has developed several means for Regions to implement this priority through the DWSRF: through the IUP development reliance on the three priorities of SDWA with the Region’s review and approval; through the use of the annual review checklist during Headquarters’ review of the Region’s DWSRF program; and through the review by the Regional PWSS program of states accomplishment of capacity development strategies and operator certification programs to enable states to receive full DWSRF capitalization grants each year.

Page 9, second full paragraph: The report cites the new Enforcement Targeting Tool (ETT) to identify water systems with SDWA violations that may be useful in informing state and Regional DWSRF programs about systems which may need either capital financing or technical assistance through the DWSRF or other relevant programs to achieve compliance with SDWA. EPA’s enforcement program is working with its PWSS program to incorporate the ETT results in relevant processes such as capacity development strategies review, replacing the approach previously resulting in water systems being designated in “significant non-compliance” under prior violation screening methods. EPA’s Office of Enforcement and Compliance Assurance (OECA) coordinated closely with the OW to provide a webinar on the ETT to state counterparts in October 2011. The training materials are now available to states on the internet. EPA’s OW and OECA will continue to look for additional opportunities to increase awareness of enhanced coordination between the programs.

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