

Insufficient Resources for State Drinking Water Programs Threaten Public Health

*Recommendations from the Association of State Drinking Water
Administrators*

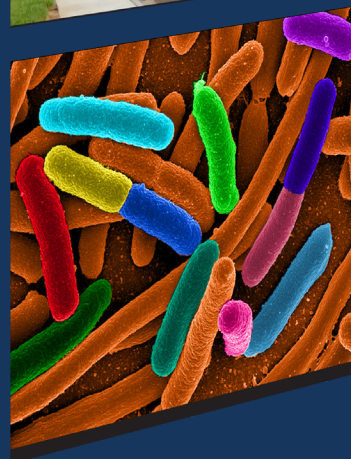


TABLE OF CONTENTS

Table of Contents	i
Acronyms	ii
Recommendations to Congress: Appropriations-Related	1
Recommendations to Congress: Legislation-Related	2
Recommendations to State Legislatures and State Drinking Water Programs.....	3
Recommendations to States and EPA.....	4

ACRONYMS

ASDWA	Association of State Drinking Water Administrators
CWA	Clean Water Act
DWSRF	Drinking Water State Revolving Fund
EPA	U.S. Environmental Protection Agency
FY	Fiscal Year
PWSS	Public Water System Supervision
SDWA	Safe Drinking Water Act

These recommendations were developed by the Association of State Drinking Water Administrators (ASDWA) and the directors of state drinking water programs, as a companion document to the report entitled *Insufficient Resources for State Drinking Water Programs Threaten Public Health – An Analysis of State Drinking Water Programs’ Resources and Needs*. These recommendations address the issues and concerns noted in the analysis report, especially the current and widening funding gap faced by state drinking water programs.

The authors have recognized for many years a widening gap between available resources and the resources needed to implement even a minimum base program. The analysis report describes the expanding role that state drinking water programs play in supporting water systems and ensuring safe drinking water. It points out that even as resource needs are increasing, the funding available to support the state drinking water programs in their mission has stagnated. The analysis report shows that if funding continues at current levels, states will not have adequate funding to support their minimum base programs over the next ten years.

The following are ASDWA’s recommendations to Congress, the United States Environmental Protection Agency (EPA) and states for helping to address the current and projected shortfalls in federal and state resources needed to support state drinking water programs. These recommendations include ideas for providing additional funding to state drinking water programs as well as policy and programmatic approaches for making the best use of available funds. They are consistent with recommendations ASDWA has made over the past several years in various forums and to various audiences. The recommendations in each subsection are in priority order.

Recommendations to Congress: Appropriations-Related

Increase funding for the Public Water System Supervision (PWSS) Grant Program.

ASDWA recommends that the size of this grant program should be increased from the current \$100.05 million (in fiscal year [FY] 2013) to at least \$200 million. Although the PWSS appropriation increased following the 1996 Safe Drinking Water Act (SDWA) Amendments, it has not grown appreciably since then to keep pace with increasing state workloads, with the expanding suite of established drinking water standards or with inflation. The increases of a few million dollars in the past few years, though welcome, have been counterbalanced by the elimination of the state security grant (as described below). The PWSS Grant Program is the principal and most important source of funding for states because of its flexibility in supporting state programs, and because it is a dedicated source of funding for drinking water program implementation—unlike the set-asides that are derived from the Drinking Water State Revolving Fund (DWSRF), for example, which are in competition to a certain extent with infrastructure funds. ASDWA further recommends that the formula for PWSS Grant allocations be reconsidered and revised, as appropriate, so as not to punish states whose inventory has nominally decreased (but whose workload has not decreased proportionately) as a result of system consolidation. And—as noted below—when DWSRF funding for state programs via set-asides decreases, an increase in PWSS Grant funding will be required to ensure the continuity of state programs.

Increase funding for the DWSRF. Current funding for the DWSRF stands at \$853.8 million (in FY 2013). ASDWA believes that \$1.3 billion—which is approximately the level appropriated in FY 2010 and the amount requested by the President in FY 2011—is an appropriate funding level. Compelling arguments have been made—by EPA, the American Water Works Association, the American Society of Civil Engineers and others—about the need for greater federal support for infrastructure funding, given the extent of infrastructure needs for decades to come. Apart from those cogent arguments for increased DWSRF funding, ASDWA would like to emphasize that states urgently need greater funding levels for the DWSRF so that more funding for state programs can be made available through the set-

asides. Increased funding for the DWSRF would make more funding available for both infrastructure and state programs, thereby lessening the pressure for tradeoffs between those uses. ASDWA also believes that it is important to plan for a time when the annual DWSRF appropriation declines significantly and the fund principally “revolves” without infusion of substantial new appropriations. At such time, the annual appropriation for the PWSS Grant Program (discussed above) should be further augmented to offset reductions in funding for state programs from DWSRF set-asides.

Restore the Drinking Water Security Grant Program. ASDWA recommends restoring the Security Grant Program and increasing its funding to at least \$10 million. The original Drinking Water Security Grant Program, while rather modest (approximately \$5 million per year in FY 2002-2010), was nonetheless instrumental in helping states establish and implement state drinking water security programs to deal comprehensively with hazards and security threats, including those posed by both manmade and natural disasters. When the grant was discontinued, many states resorted to using PWSS Grants or DWSRF set-asides to continue to fund state drinking water security programs. Several states, due to the cut in federal funding, have effectively shut down (at least for the present) their drinking water security programs, and must take a reactive rather than proactive stance to security concerns. Restoration of this grant would be an important step in helping support the critical state role in ensuring drinking water sector security.

Recommendations to Congress: Legislation-Related

Adjust the Matching Requirements for the 10 Percent Set-Aside. ASDWA recommends that Congress remove the extra 100 percent matching requirement (which is on top of the 20 percent overall DWSRF matching requirement) for the state program set-aside. Section 1452(g)(2)(D) of the SDWA specifies that in order to receive the 10 percent set-aside for a variety of state program activities, a state must match the federal funds dollar-for-dollar. This 100 percent match requirement for the set-aside is in addition to the overall 20 percent match required for the DWSRF as a whole under section 1452(e). For states that cannot meet this 100 percent matching requirement, the set-aside is effectively unavailable. Furthermore, the cumulative 120 percent matching requirement for the state program set-aside is inconsistent with other program requirements under the SDWA and the Clean Water Act (CWA). For example, section 1443(a) of the SDWA for the PWSS Grant requires a 25 percent state match. Section 106 of the CWA does not require any monetary match in order to receive state grant funds, and the CWA only requires a 20 percent state match for the capitalization grant provided for the Clean Water SRF. Removal of the additional 100 percent matching requirement from section 1452(g)(2)(D) of the SDWA would make the requirement consistent with similar obligations elsewhere in the statute and make these funds more accessible to states for critical state drinking water program activities.

Increase the 4 Percent Set-Aside. ASDWA recommends that Congress increase the administrative set-aside from 4 percent to 6 percent by amending section 1452(g)(2). Over the course of more than 15 years of state experience in administering the DWSRF, it has become evident that for many states and for certain kinds of projects, the 4 percent set-aside provided for administrative purposes is simply inadequate. The current requirements for engineering, loan officer activities, accounting and other administrative tasks exceed the value of the 4 percent set-aside for complex projects in many states. Administration of the fund has become increasingly challenging over recent years as the number of applicable executive orders, federal regulations and policies associated with the fund have grown. At the same time, as new drinking water standards are established, state loan officers must consider a wider range of infrastructure projects in need of funding to meet those standards. ASDWA does not expect that all states would claim additional needs under the administrative set-aside if the allowable percentage was increased. Some states find the currently allowable amount fully sufficient for their

needs. Others, however, do have administrative needs that exceed the current 4 percent set-aside. In making this recommendation, ASDWA wishes to emphasize that any increases in this set-aside should not come at the expense of the other available set-asides. In other words, the total available from all set-asides would increase from 31 percent to 33 percent under this recommendation. Indeed, states find the 2 percent (capacity development) and 10 percent (state programs) set-aside categories to be particularly vital to administering their programs.

Recommendations to State Legislatures and State Drinking Water Programs

State drinking water programs are inherently preventative and proactive in nature. When they do their job well, they do not make headlines. They thus tend to become “victims of their own success,” typically having a low profile among state-level decision-makers’ many competing priorities. As a foundation for all of the following recommendations, state drinking water programs should actively inform and educate state legislatures and state agency decision-makers about the criticality and value of the work they do for the welfare of the citizens of their state.

Employ Efficiencies. ASDWA recommends that state drinking water programs use all appropriate efficiency, streamlining and collaboration measures to make optimum use of existing resources and leverage resources of other programs. States have explored and adopted an array of innovative practices in recent years designed to make their programs more efficient and streamlined. Much has been accomplished in this regard, and there are numerous state best practices that have been shared among states through conferences, ASDWA and EPA workgroups, and informal networking. ASDWA recommends that states continue to explore and consider such approaches—and continue to share best practices with one another.

Increase State Fees or Put New Fee Systems in Place. Wherever feasible and appropriate, ASDWA recommends that state drinking water programs put in place fee systems (where they do not currently exist), or raise existing fees, to increase funding. In most cases, state drinking water programs need state legislative approval for establishing or expanding fee systems. Such approval is especially difficult in these resource-constrained times. States that have been effective in this regard have tended to use a strategy of gaining widespread stakeholder support by transparently describing the nature of their resource challenges and explaining what state services are not (or will no longer be) provided without the increase in fees.

Increase State General Funds. ASDWA recommends that, wherever feasible, state legislatures appropriate, and state agencies direct, more state general funds for use by state drinking water programs. This recommendation, like that for fee systems, represents a particular challenge for states during these resource-constrained times and requires the support of both state legislatures and executive branches. To make the argument for urgently needed funds to state legislatures, advocates should articulate the critical public health protection mission of state drinking water programs.

Remove Hiring Caps and Freezes. ASDWA recommends that state decision-makers should, wherever conditions allow, support hiring additional staff for the drinking water program by eliminating hiring freezes and removing staffing caps. In many states, rather strict staffing limits—including hiring freezes and caps—have been imposed at the state executive, legislative and agency levels. These steps have been taken in response to downturns in both the national and state economies and diminished or flat federal and state appropriations. As a result, state drinking water programs often cannot hire staff to fill vacancies or respond to increased workloads. As a consequence of these policies, state staff who leave or retire (many of whom are quite senior and experienced) often cannot be replaced. These

restrictions can diminish morale, as state employees grow more overworked and feel the losses of this expertise.

Recommendations to States and EPA

Priority-Setting. ASDWA recommends that states engage their EPA regional office counterparts on setting priorities for achieving their public health protection mission within resource constraints. Increasingly, states have needed to set priorities carefully to favor those activities most likely to protect public health and to suspend or delay those activities that do not substantially contribute to that goal. States should continue to engage in these discussions and examinations, in partnership with the EPA regional offices, on a regular basis.

DWSRF Set-Asides Usage. ASDWA recommends that EPA exercise flexibility in its review of state workplans for set-aside usage, and develop clarifying guidance and policy as needed in this regard. Based on state experiences since the inception of the DWSRF, ASDWA believes that there is an array of eligible and worthwhile uses of the set-asides (e.g., use of the 15 percent set-aside for state source water protection activities). ASDWA wishes to ensure that these various uses are routinely considered and made available to states by all EPA regions, in consultation with EPA's Office of Ground Water and Drinking Water.

