



Environmental Council of the States

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July 14, 2023

Ms. Janet McCabe
Mr. Faisal Amin
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: U.S. EPA's FY25 Budget Development

Dear Deputy Administrator McCabe and Chief Financial Officer Amin,

ECOS leaders greatly appreciate U.S. EPA's willingness to hear from states regarding our priorities for EPA's FY25 budget planning process as part of our shared commitment to early meaningful engagement between states and EPA.

EPA shared several questions with ECOS to help guide our FY25 budget input. On behalf of ECOS, I offer the following input:

1. Given the constraints of the budget, what is the single biggest program adjustment that would accelerate progress on our shared priorities?

Seek and advocate for increased Categorical Grant funding for states – States urge EPA to work diligently to maintain and expand Categorical Grants for states implementing federally delegated/primacy/authorized programs. States need a fully staffed state workforce to help meet EPA's FY2022 – 2026 Strategic Plan goals. Support for state staffing and program implementation should be reflected in increased President's Budget Categorical Grants requests, in EPA testimony to Congress, and through other means. States are feeling squeezed with permitting requests, expanded EPA direction for permitting analyses, and workload associated with additional funding to State Revolving Funds (SRFs) and through the Inflation Reduction Act (IRA).

States have [testified](#) in the last few years in favor of increases to three primary Categorical Grants: Resource Conservation and Recovery Act (RCRA)/solid waste/recycling, Section 106 pollution control, and air (Sections 103 and 105). After 20 years of relatively flat funding, in FY24, EPA's budget seeks a 60% increase (\$151.2M) for state and local air programs, an 18% increase for Section 106 Pollution Control (\$42.4M), and a 3% increase for RCRA/solid waste/recycling (\$3.2M). In addition to the President's Budget request level, concerted efforts are needed to support enactment at these levels or higher.

Also, additional federal monies are needed through State and Tribal Assistance Grants (STAG) and other programs, not only to implement the necessary public water and wastewater infrastructure improvements to reduce per- and polyfluoroalkyl (PFAS) exposures and pollutant loads in the nation's water, but also to investigate and clean up PFAS contamination.

States strongly encourage EPA to seek increased funding in FY25 for these three programs, for PFAS, and for wetland grant programs, as well as work to achieve budget enactment of requested levels or higher.

2. What priorities included in the FY 2024 President's Budget are most important to maintain or build on going forward?

As co-regulators, states implement the majority of federally designed programs, including the Inflation Reduction Act (IRA) and the Bipartisan Infrastructure Law/Infrastructure Investment and Jobs Act

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(BIL/IIJA). States need administrative funding to meet the desired outcomes and to meet our shared responsibilities as already noted.

In addition, while regulated facilities, communities, and the public are important stakeholders, state environmental agencies as co-regulators with EPA share an important and unique relationship. It is important to work together as partners with respect to funding and regulation.

States acknowledge that addressing PFAS and its impacts on human health and the environment will require significant funding, not just from responsible parties, but from the federal government to assist with monitoring, research, training, risk communication, and other activities. Close coordination should continue.

As stated in [ECOS Resolution 08-3: State Assumption of Clean Water Act \(CWA\) Section 404 Permit Program](#) and in light of the U.S. Supreme Court *Sackett* decision on Waters of the United States, which reduced the scope of federal jurisdiction, states strongly encourage EPA to publicly express support for state assumption of CWA 404(g) permitting program and to support U.S. congressional action to authorize and appropriate adequate funding for states that assume the Section 404 permitting program, including development and implementation activities. States also encourage EPA to seek increased funding for and to broaden the eligibility of the existing U.S. EPA wetland program development grants for both development and implementation activities. ECOS anticipates that the number of states considering development and implementation of state wetland programs may increase in the current regulatory environment. State environmental programs, particularly those with robust state waters programs, will play an increasingly important role in local protection of local wetlands and watersheds. States encourage EPA to seek increased funding for state wetland stewardship activities.

3. What non-financial assistance can EPA provide to advance the goals and objectives in the FY 2022-2026 EPA Strategic Plan (e.g., engagement, technical assistance)?

PFAS –

- States have collaborated with EPA on reducing PFAS exposure in a number of ways. With regard to biosolids, states seek to prevent PFAS from entering wastewater treatment facilities and to preserve flexibility for the use and disposal of biosolids while prioritizing public health and need EPA's support.
- States seek close coordination on risk communications between and among state, regional, and EPA headquarters offices to minimize unnecessary community concerns and effectively communicate the long-term nature of risk factors with EPA standards setting.
- States encourage EPA to clarify state regulatory authority within the federal PFAS regulatory framework.
- States encourage EPA to support adequate laboratory testing facilities broadly and for timely development of additional published analytical methods for PFAS in all media.
- States encourage EPA to further develop research into appropriate destruction methods of PFAS-containing materials and to develop acceptable levels of PFAS in materials suitable for land application.
- States need training and guidance on PFAS investigations and response.

Staff Recruitment – States are experiencing staffing turnover and vacancies. This is exacerbated if EPA recruits from state environmental agency workforces. EPA and states should collaborate to recruit in ways that support staffing needs of both agencies and to share perspectives on attracting and keeping top talent to meet the current demands of environmental agencies including hiring and retaining qualified and dedicated staff, skills development and training needs, and promoting and supporting a diverse workforce.

EPA Non-Discretionary Duties – States are impacted if EPA does not meet its non-discretionary duties. In Resolution 13-2 on [The Need for Reform and State Participation in EPA's Consent Decrees Which Settle Citizen Suits](#), ECOS “[u]rges U.S. EPA to devote the resources necessary to perform its nondiscretionary duties within the timeframes specified under federal law including addressing historic backlogs, especially

when required to take action on a state or territorial submission made under an independent right or responsibility (e.g., State Implementation Plans under the Clean Air Act).” States encourage EPA to both seek and direct appropriate funding to perform its nondiscretionary duties in a timely manner.

Community Project Funding (CPF)/Congressionally Directed Spending (CDS)/Earmark Funding – There is ongoing and increasing state concern regarding the source of the CPF/CDS funding and the significant negative impact on SRF Capitalization Grant awards to states. The current approach substantially reduces states’ ability to award projects that meet grant program criteria, including prioritizing overburdened/disadvantaged communities, and reduces future year funding as dollars awarded via CPF/CDS are not paid back and therefore will not revolve. States ask that EPA work collaboratively to urge Congress to reconsider its approach to earmark implementation.

Water Technical Assistance – EPA has launched significant contracts for technical assistance through the Environmental Finance Centers (EFCs) and through the Thriving Communities Technical Assistance Centers (TCTACs). States need funds for new staff to effectively support federal grants for environmental justice communities that need considerable assistance to implement community-based grants, particularly if community-based grants continue to be made available. EPA has also launched a new water technical assistance [website](#). There is little to no mention of SRF technical assistance programs and little EPA acknowledgement of the important work of the SRFs on this webpage. States encourage EPA to communicate to the EFCs, TCTACs, and on its webpage about these existing, important SRF technical assistance centers available to communities.

Lead – EPA requires full lead service line replacement with limited allowance for costs of fixtures and other adjacent devices that may contain lead to be replaced with federal funding. States ask for increased EPA flexibility, or congressional action if necessary, regarding the use of federal funding to protect communities from lead exposure.

Cumulative Impacts Tools – States would benefit from EPA cumulative impacts analysis examples and tools for states to consider such as with evaluation of multiple pollutant impacts.

4. Considering the IIJA and IRA investments, does that change or impact any needs in EPA’s annual budget?

Balance New Infrastructure Investments with State Staffing and Capacity Building Needs - States are highly supportive of investments in community drinking water and wastewater infrastructure and appreciate the significant historic federal funding provided. Given the substantial existing federal investments, EPA should consider prioritizing investment in state staffing to support infrastructure investments and state assistance for community activities. In FY24, EPA is seeking \$480M for 17 new infrastructure programs authorized as part of the Drinking Water and Wastewater Infrastructure Act and adopted through IIJA. EPA is also seeking increases of \$392.6M to nine additional infrastructure programs. This request is being made while there is significant infrastructure funding available through the American Rescue Plan Act, BIL/IIJA, and IRA. States note that this request of \$872.6M in new and expanded infrastructure funding is more than half of the Categorical Grants request for states and tribes of \$1.4B, and that both are being made in a tight FY24 domestic funding environment. States need federal funding to support implementation of infrastructure investments and increased demand for community support alongside increased demands to implement new rules, permitting demands, potentially new wetland and water responsibilities, and other priorities.

Finally, ECOS offers for your consideration our [May 18, 2023 letter](#) to Congress urging adequate funding of environmental cleanup of the nuclear weapons complex and encouraging EPA to work with the U.S. Department of Energy Office of Environmental Management to achieve this goal.

States are committed to our partnership with EPA. ECOS appreciates your review of these comments and EPA’s continued collaboration with states to protect human health and the environment. Please reach out

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to me at (803) 898-4132 or ECOS Executive Director Ben Grumbles at (202) 266-4920 if you have any questions or we may be of assistance.

Sincerely,



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