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Sent via ELECTRONIC MAIL to: commentletters@waterboards.ca.gov



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

Subject: Comment Letter – FFY 2018 DWSRF IUP

Dear Ms. Townsend,

The California Municipal Utilities Association (CMUA), representing 43 public water agencies that serve over 70 percent of Californians, appreciates the opportunity to comment the Draft Drinking Water State Revolving Fund Intended Use Plan (DWSRF IUP) for the Federal Fiscal Year 2018.

Establishment of an Applicant led Workgroup Would Achieve Stated Goals in the IUP

CMUA supports the State Water Board's Division of Financial Assistance's suggestion to streamline the administration of the Drinking Water and Clean Water State Revolving Funds (DWSRF / CWSRF). CMUA believes the best way to achieve the short-term goal of responsible management in Section II(B)(2) is by creating a workgroup to review the current process. The workgroup would be comprised of current and former applicants, Division of Financial Assistance staff and members of the public to ensure the process is streamlined, efficient, user-friendly, and transparent.

CWSRF and DWSRF Eligibility Should Align

CMUA suggests aligning CWSRF and DWSRF IUPs language regarding eligible expenditures. As currently written, the CWSRF IUP allows for the retroactive eligibility of construction expenditures (Pg. 32) whereas the DWSRF IUP does not. Consistency between the two programs ensures that projects can continue to meet public health and infrastructure reliability goals while financing agreements are being finalized and issued. The State Water Board could establish an effective date for eligible construction costs as early as the Notice to Proceed Date to achieve this goal.

Disadvantaged Business Enterprise Language Requires Clarification

As local entities, CMUA members agree with the overall goal of encouraging and increasing the participation of Disadvantaged Business Enterprises (DBEs) in DWSRF-financed projects. However, incorporation of and compliance with the requirements, as described in Section VI.I on

Page 49, has been challenging for CMUA members and resulted in outcomes that are contrary to the DBE program goals, as described below:

- Some agencies have adopted procurement policies and supplier diversity programs that go beyond “good faith effort” requirements to mandate specific DBE participation commitments. However, in an effort to ensure cost-effectiveness and efficiency in project delivery, these programs have also been tailored to apply specifically to procurements in which subcontracting opportunities are most viable. Because these programs do not directly mirror the DBE Compliance Guidelines, agencies have had to tailor individual procurement opportunities to meet DWSRF requirements, often times resulting in additional costs and delays.
- As noted above, meeting the requirements is cumbersome for some types of agreements, such as for general supplies and equipment rentals that are procured by internal business organizations for the purposes of supporting the agency’s overall operations rather than for specific projects. Experience has shown that DBE participation opportunities for such types of contracts are extremely limited. In these cases, the DBE requirements limit vendor interest, resulting in less overall competition, project delays, and potentially higher costs to ratepayers.
- Compliance is not feasible for certain agreements, such as for purchases of specialized equipment or materials that are only available through manufacturers and direct suppliers that may not be DBEs. Current requirements do not provide flexibility for members to address this type of situation in a time-efficient and cost-effective manner.

CMUA suggests that the State Water Board develop a definition of types of purchases to which DBE requirements would be practically applicable. This approach would recognize the wide variety of agreements that go into supporting project planning and construction, encourage the employment of DBEs, and minimize project delays and costs to ratepayers. This threshold could be a topic of discussion at the proposed workgroup on streamlining DWSRF and CWSRF administration.

CMUA thanks the State Water Board for consideration of these comments. If you have any questions, I can be reached at (916) 326-5806.

Sincerely,



Jonathan Young
Regulatory Advocate
California Municipal Utilities Association

Cc: Honorable Members of the State Water Resources Control Board