Order Code RL30478

Report for Congress

Received through the CRS Web

Federally Supported Water Supply and Wastewater Treatment Programs

Updated March 25, 2003

Betsy A. Cody, Claudia Copeland, Mary Tiemann, and Jeffrey Zinn
Resources, Science, and Industry Division

Federally Supported Water Supply and Wastewater Treatment Programs

Summary

Although the federal government has played a significant role in developing water quality regulations and standards for municipal and industrial (M&I) water use, it historically has provided a relatively small percentage of the funding for construction of water supply and treatment facilities for M&I uses. Yet, several programs exist to *assist* communities with development of water supply and treatment projects, and it appears that Congress is more frequently being asked to authorize direct financial and technical assistance for developing or treating water supplies for M&I use.

This report provides background information on the types of water supply and wastewater treatment *projects* traditionally funded by the federal government and the several existing *programs* to assist communities with water supply and wastewater recycling and treatment. These projects and programs are found primarily within the Department of Agriculture (USDA), Department of Commerce, Department of Defense (DOD), Department of Housing and Urban Development (HUD), Department of the Interior (DOI), and the Environmental Protection Agency (EPA).

The focus of some programs has been enlarged over the years. The Department of the Interior's Bureau of Reclamation was established to implement the Reclamation Act of 1902, which authorized the construction of water works to provide water for irrigation in arid western states. Congress subsequently authorized other uses of project water, including M&I use. Even so, the emphasis of the Bureau's operations was to provide water for irrigation. Similarly, the U.S. Army Corps of Engineers (Department of Defense) constructed large reservoirs primarily for flood control, but was authorized in 1958 to allocate water for M&I purposes. Over the past 30 years, Congress has authorized and refined several programs to assist local communities in addressing other water supply and wastewater problems. These programs serve generally different purposes and have different financing mechanisms; however, there is some overlap.

Funding for the programs and projects discussed in this report varies greatly. For example, Congress appropriated $845 million for FY2003 for grants to states under EPA's State Revolving Loan Fund (SRF) Program for drinking water facilities and $1.34 billion for EPA's SRF program for wastewater facilities; funds appropriated for the USDA's rural water and waste disposal grant and loan programs are $719 million for FY2003; HUD Community Development Block Grant funds (used partly but not exclusively for water and wastewater projects) are $4.3 billion for FY2003, $1.3 billion of which is available to smaller communities under its state programs. In contrast, the Bureau of Reclamation's Title 16 program received a total of $30.6 million for FY2003.

For each of the projects and programs discussed, this report describes project purposes, financing mechanisms, eligibility requirements, recent funding, and the Administration's FY2004 budget request. The report will be updated.

Contents

Introduction 1

Background 2

Department of the Interior 6
Bureau of Reclamation 6
Traditional Multi-purpose and Rural Water Supply Projects 7
Title 16 Projects 8

Department of Defense 9
Army Corps of Engineers (Civil Works Program) 9
Water Supply Act Projects 11

Department of Agriculture 12
Rural Utilities Service (Water and Waste Disposal Programs) 12
Natural Resources Conservation Service (Small Watershed Program) 15

Environmental Protection Agency 19
Clean Water State Revolving Fund Loan Program 19
Drinking Water State Revolving Loan Fund Program 21

Department of Housing and Urban Development 23
Community Development Block Grants 23

Department of Commerce 24
Economic Development Administration (Public Works and Development Facilities Program) 24

List of Tables

Table 1. Federal Water Supply Program/Project Financing 4

Federally Supported Water Supply and Wastewater Treatment Programs

Introduction

Although the federal government has played a significant role in developing water quality regulations and standards for municipal and industrial (M&I) water use, it historically has provided a relatively small percentage of the funding for construction of water supply and treatment facilities for M&I uses. Yet, several programs exist to *assist* communities with development of water supply and treatment projects, and it appears that Congress is being asked more frequently to authorize direct financial and technical assistance for developing or treating water supplies for M&I use. Recent proposals include "rural water supply projects" to be built and funded by the Bureau of Reclamation in the Department of the Interior (hereafter referred to as the Bureau), water recycling projects built and partially funded by the Bureau, and programs for water supply and wastewater treatment projects to be largely funded by the U.S. Army Corps of Engineers (Corps). There has also been growing interest in expanding the size and scope of the State Revolving Fund loan programs under the Clean Water Act and the Safe Drinking Water Act, as well as support for individual wastewater and drinking water projects through congressionally earmarked grants in appropriations legislation.

This report provides background information on the types of water supply and wastewater treatment *projects* traditionally funded by the federal government and the several existing *programs* to assist communities with water supply and wastewater recycling and treatment. Projects developed by the Bureau and the Corps typically require direct, individual project authorizations from Congress. In contrast, projects funded by other agencies are funded through standing program authorizations. These programs are found primarily within the Department of Agriculture (USDA), Department of Commerce, Department of Housing and Urban Development (HUD), and the Environmental Protection Agency (EPA). The key practical difference is that with the individual *project* authorizations there is no predictable assistance, or even guarantee of funding after a project is authorized, because funding must be secured each year in the congressional appropriations process. The *programs,* on the other hand, have set program criteria, are generally funded from year to year, and provide a process under which project sponsors compete for funding.

For each of the projects and programs discussed, this report describes purposes, financing mechanisms, eligibility requirements, and recent funding. The report does not address special projects and programs aimed specifically at assisting Indian

Tribes, Alaskan Native Villages, and *Colonias*,[1] or other regional programs such as those associated with the Appalachian Region or U.S. Territories.

Background

The federal government has built hundreds of water projects over the years, primarily dams and reservoirs for irrigation development and flood control, with M&I use as an incidental, self-financed, project purpose. Most of the nation's public municipal water systems have been built by local communities under prevailing state water laws.

The Bureau of Reclamation (Bureau) was established to implement the Reclamation Act of 1902, which authorized the construction of water works to provide water for irrigation in arid western states. Congress subsequently authorized other uses of project water, including M&I use. Even so, the emphasis of the Bureau's operations was to provide water for irrigation. This emphasis is evidenced in part in the different payment mechanisms that evolved to finance projects (described below). Similarly, the U.S. Army Corps of Engineers (Corps) constructed large reservoirs primarily for flood control, but was authorized in 1958 (Water Supply Act of 1958, 72 Stat. 320; 43 USC § 390b) to allocate water for M&I purposes. In this Act, Congress emphasized the primacy of non-federal interests:

> It is declared to be the policy of the Congress to recognize the primary responsibilities of the States and local interests in developing water supplies for domestic, municipal, industrial, and other purposes and that the Federal Government should participate and cooperate with States and local interests in developing such water supplies in connection with the construction, maintenance, and operation of Federal navigation, flood control, irrigation, or multiple purpose projects. (43 USC § 390(b))

Over the past 30 years, Congress has authorized and refined several programs to assist local communities in addressing other water supply and wastewater problems. The agencies that administer these programs differ in scope and mission. For example, the primary responsibilities of the Corps of Engineers are to maintain inland navigation and provide for flood control, while EPA's mission relates to protecting public health and safeguarding the national environment. Others, such as HUD and the Department of Commerce, focus on community and economic development. Likewise, the specific programs discussed in this report–while all address water supply and wastewater treatment–differ in important respects. Some are national in scope (those of USDA, EPA, and the Department of Commerce, for example), while others are regionally focused (the Bureau's programs and projects). Some focus primarily on urban areas (HUD), others on rural areas (USDA), and others do not distinguish based on community size (EPA, the Bureau, the Corps). In addition, these programs serve generally different purposes and have different

---

[1] *Colonias* typically are rural, unincorporated communities or housing developments near the U.S.-Mexico border that lack some or all basic infrastructure, including plumbing and public water and sewer.

financing mechanisms (some provide grants, others authorize loans); however, there is some overlap. For example, the rural water and waste disposal program of the USDA typically authorizes "water delivery" assistance to improve community water systems and water quality, while EPA's drinking water infrastructure program is driven primarily by "end of the pipe" water quality requirements of the Safe Drinking Water Act (SDWA), first authorized in 1974. Similarly, while the Clean Water Act sets performance standards for discharges of municipal sewage treatment, it also provides financial assistance to municipalities for constructing treatment facilities in order to comply with the law.

Funding for the programs and projects discussed in this report varies greatly. For example, for FY2003[2] Congress appropriated $845 million for grants to states under EPA's State Revolving Loan Fund (SRF) program for drinking water facilities and $1.34 billion for EPA's SRF program for wastewater treatment facilities; funds appropriated for the USDA's rural water and waste disposal grant and loan programs are $719 million for FY2003; HUD Community Development Block Grant funds (used partly but not exclusively for water and wastewater projects) are $4.3 billion for FY2003, $1.3 billion of which is available to smaller communities under the CDBG state program. In contrast, the Bureau's Title 16 reclamation/recycling program received approximately $30.6 million for FY2003 – funding for the entire agency was slightly more than $900 million for FY2003. Collectively, congressional funding for these programs has remained fairly level in recent years, despite the continuing pressure from stakeholders and others for increased funding.[3]

It is also important to note that state and local contributions are a significant source of funds available to local communities for drinking water and wastewater improvements. For example, from FY1991 through FY2000, states contributed about $10.1 billion to match EPA's capitalization grants for drinking water and wastewater SRFs and made about $13.5 billion available for these activities under state-sponsored grant and loan programs and by selling general obligation and revenue bonds.[4]

The following table summarizes financial and other key elements of the projects and program activities discussed in this report.

---

[2] FY2003 appropriations for programs and projects described in this report were provided in P.L. 108-7, the Consolidated Appropriations Resolution for FY2003. That act included a general 0.65% reduction of amounts specified in the legislation. Throughout this report, discussion of FY2003 funding levels reflects the reduction from the congressionally specified level. For example, the appropriated amount for drinking water SRF grants was $850 million, but was reduced to $844.5 million by the 0.65% limitation.

[3] For additional information on budgetary trends for the natural resources and environment activities of the federal budget, which include many of the water supply and wastewater treatment programs discussed in this report, see CRS Report RS21154, *The Natural Resources and Environment Function of the FY2003 Federal Budget: An Overview of Programs and Funding.*

[4] U.S. General Accounting Office. *Water Infrastructure: Information on Federal and State Financial Assistance*. November 2001. GAO-02-134: 18. Hereafter, GAO Water Infrastructure.

Table 1. Federal Water Supply Program/Project Financing

Agency and Projects or Program	Project Purposes	Type of Financial Assistance	Federal/ Non-Federal Cost Share**	Average Amount of Assistance	FY2003 Funding	FY2004 Funding Request
USDOI Bureau of Reclamation	Multi-purpose water projects, which may include M&I*	Loan	0%/100%, with interest for M&I uses	Not applicable	Not readily available (Total agency approps.are $917.3 million)	(Total agency approps. request is $878 million)
USDOI Bureau of Reclamation (Title 16 of P.L. 102-575)	Wastewa-ter recla-mation and reuse*	*De facto* grant (see discussion on page 8)	Up to 25%/75%; dollar limits may apply	$1.5 million (FY2003 approps.)	$30.6 million	$12.6 million
USDOI Bureau of Reclamation	Non-Indian "rural water supply"*	*De facto* grant (see discussion on page 8), plus loan	Average of 64%/26% (range from 15% repayment to 80% – some grants)	$14.9 million (FY2003 approps.)	$89.4 million	$18 million
US Army Corps of Engineers (general)	Multi-purpose water projects, which may include M&I*	Loans	0%/100%, with interest	Not applicable	Not readily available (Total agency approps. are $4.57 billion)	Not readily available (Total agency approps. request is $4.2 billion)
US Army Corps of Engineers (Section 219 projects)	"Environ-mental infrastruc-ture"*	Technical/ planning and design services	75%/25%	Authorizations range from $0.5 million to $25 million	Not readily available	None
U.S. Army Corps of Engineers (multiple sections of WRDA 1992, 1996, 1999, P.L. 108-7)	"Environ-mental infrastruc-ture"*	Design and construction grants	75%/25%	Authorizations range from $200,000 to $180 million	Not readily available	None

Agency and Projects or Program	Project Purposes	Type of Financial Assistance	Federal/ Non-Federal Cost Share**	Average Amount of Assistance	FY2003 Funding	FY2004 Funding Request
USDA Rural Utilities Service, Water and Waste Disposal Program	Municipal water supply and waste disposal	Loans and grants	0%/100% for loans Up to 75%/25% for grants	Average loan: $854,285 Average grant: $657,339 (FY2001)	$719 million	$381 million
USDA Small Watershed Program	Multiple activities, but generally must include flood control measures	Project grants and technical advisory services	0%/100% Varies according to purpose of improvement activity	$650,000	$138 million total (construction, $108.3 million; rehabilita-tion, $29.8 million)	$40 million total
EPA, Clean Water State Revolving Loan Fund (SRF) Program	Municipal wastewater treatment, nonpoint pollution manage-ment, National Estuary Program implement ation	Grants to states to capitalize loan funds SRF loans to local project sponsors	80%/20% for grants to states to capitalize SRFs 0%/100% (Project loans are repaid 100%)	Average capitalization grant to state: $30 million Average assistance provided from SRF: $3.2 million	$1.34 billion	$850 million
EPA, Drinking Water State Revolving Loan Fund (SRF) Program	Public water supply: projects needed to meet federal drinking water standards and to address serious health risks	Grants to states to capitalize loan funds SRF loans to local project sponsors	80%/20% for grants to states to capitalize SRFs 0%/100% (Project loans are repaid 100%)	Average capitalization grant to state: $15.6 million (FY2002) Average assistance provided from SRF: $2.1 million	$844.5 million	$850 million

Agency and Projects or Program	Project Purposes	Type of Financial Assistance	Federal/ Non-Federal Cost Share**	Average Amount of Assistance	FY2003 Funding	FY2004 Funding Request
HUD, Community Development Block Grant Program	Multi-purpose community development projects, which may include water and waste disposal	Grants, 70% of which are reserved for urban areas	100%/0%	Not readily available	$4.3 billion total; includes about $1.3 billion available for non-urban areas	$4.4 billion
EDA, Public Works and Development Facilities Program	Multi-purpose economic development projects, which include non-rural, non-residential water and sewer	Grants	Generally 50%/50%; however, may range to 80%/20% for non-Indian projects	Average grant $1,010,844 (FY2001)	$204 million	$232 million

* These projects generally must be authorized by Congress prior to construction.

** Although the ultimate federal cost-share may be 0%, unless otherwise stated, the federal government may provide 100% of initial construction costs allocated to M&I use, to be repaid over the life of the loan or repayment contract (typically 40-50 years).

Department of the Interior

Bureau of Reclamation

The Bureau of Reclamation was established to implement the Reclamation Act of 1902, which authorized the construction of water works to provide water for irrigation in arid western states. The Bureau manages numerous municipal and industrial water supply facilities as part of larger, multi-purpose reclamation projects serving irrigation, flood control, power supply, and recreation purposes. Overall, these facilities serve approximately 31 million people, delivering a total of approximately 28.5 million acre feet of water (an acre foot is enough to cover one acre of land one foot deep, or 325,851 gallons). Bureau-funded municipal and industrial water deliveries total approximately 2.8 million acre feet and have more than doubled since 1970. The Bureau is authorized to construct projects only in the 17 western states, unless otherwise directed by Congress.

Bureau M&I water deliveries are generally incidental to larger project purposes. However, since 1980, Congress has authorized 8 "rural water supply" projects and 26 reclamation wastewater and reuse /recycling projects. The latter, discussed below, are known as Title 16 projects because they were first authorized in 1992 under Title 16 of P.L. 102-575. Title 16, the Reclamation Wastewater and Groundwater Studies and Facilities Act, also authorized the Bureau to undertake specific and general feasibility studies for reclamation wastewater and reuse projects and to research, construct, and operate demonstration projects.

Historically, the Bureau constructed projects with federal funds, then established a repayment schedule based on the amount of total construction costs allocated to specific project purposes. Bureau project authorizations typically require 100% repayment, with interest, for M&I water supply facilities; however, on some occasions Congress has authorized other reimbursement terms. For example, for the non-Indian portion of some Bureau "rural water supply" projects, Congress has authorized 15%- 25% repayment levels and in at least one case, Perkins County Rural Water Supply System, a grant of 75% of total project costs. The federal share of costs for Title 16 projects is generally limited to a maximum of 25% of total project costs or, for projects authorized since 1996, a maximum of $20 million. In most cases, the federal share is non-reimbursable, resulting in a de facto grant to local project sponsors.

Traditional Multi-purpose and Rural Water Supply Projects. Unlike many other programs described in this report, the Bureau undertakes projects largely at the explicit direction of Congress. Local project sponsors may approach the Bureau or the Congress with proposals for project construction and funding; however, a project must be authorized by Congress before construction may begin. Because there is no "program" *per se*, there are no clear and concise eligibility or program criteria. An exception to this generality is the statutory authority for the Title 16 projects (see discussion below), which outlines items to be considered during development of feasibility studies. Yet, even for these projects, Congress must authorize construction before it is to begin.

Project Purposes. Individual authorization statutes establish project purposes. Generally, M&I projects are part of larger, multi-purpose projects such as those built for irrigation water supply, flood control, and hydro power.

Financing Mechanism. Projects are financed and constructed up front by the federal government, and costs for M&I portions of such projects are generally repaid 100%, with interest, via "repayment contracts." Congress has on occasion authorized more favorable repayment terms, such as for several "rural water supply" projects.

Eligibility Requirements. Generally, local governments and organizations such as irrigation, water, or conservation districts, may approach the Bureau and /or Congress for project support. All construction project funding must be appropriated by Congress. As noted earlier, the Bureau only works on projects located in the 17 western states (32 Stat. 388), unless specifically authorized.

Funding. Funding information for the M&I portions of multi-purpose projects is not readily available. The total Bureau request for FY2004 is $878 million. Appropriations for FY2003 are $917.3 million (P.L. 108-7).

Title 16 Projects. Title 16 of P.L. 102-575 directs the Secretary of the Interior to develop a program to "investigate and identify" opportunities to reclaim and reuse wastewater and naturally impaired ground and surface water. The original Act authorized construction of 5 reclamation wastewater projects and 6 wastewater and groundwater recycling/reclamation studies. The Act was amended in 1996 (P.L. 104-266) to authorize another 18 construction projects and an additional study, in 1998 (P.L. 105-321) and 2000 (P.L. 106-554, Division B, section 106) to authorize two more construction projects, and again in 2002 (P.L. 108-7) to authorize a 26th project. Water reclaimed via Title 16 projects may be used for M&I water supply (non-potable purposes only), irrigation supply, groundwater recharge, fish and wildlife enhancement, or outdoor recreation.

Project Purposes. The general purpose of Title 16 projects is to provide supplemental water supplies by recycling/reusing agricultural drainage water, wastewater, brackish surface and groundwater, and other sources of contaminated water. Projects may be permanent or for demonstration purposes.

Financing Mechanism. Partial grants. Project construction costs are shared by a local project sponsor or sponsors and the federal government. The federal share is generally limited to a maximum of 25% of total project costs and in most cases the federal share is non-reimbursable, resulting in a de facto grant to the local project sponsor(s). Congress limited the federal share of individual projects to $20 million in 1996 dollars (P.L. 104-266). The federal share of feasibility studies is limited to 50% of the total, except in cases of "financial hardship"; however, the federal share must be reimbursed. The Secretary may also accept in-kind services that are determined to positively contribute to the study.

Eligibility Requirements. The Bureau's water reclamation and wastewater recycling program is limited to projects and studies in the 17 western states authorized in the Reclamation Act of 1902, as amended (32 Stat. 388), unless specifically authorized by Congress. Authorized recipients of program assistance include "legally organized non-federal entities" (e.g., irrigation districts, water districts, and municipalities). Construction funding is generally limited to projects where: 1) an appraisal investigation and feasibility study have been completed and approved by the Secretary; 2) the Secretary has determined the project sponsor is capable of funding the non-federal share of project costs; and 3) the local sponsor has entered a cost-share agreement committing to funding its share.

The Bureau notes in its FY2004 budget justifications, as it has for several years, that it will focus on projects that are: "(1) economically justified and environmentally acceptable in a watershed context, (2) not eligible for funding under another Federal program, and (3) directly address Administration priorities for the Reclamation program such as providing instream flows for federally endangered or threatened species, meeting the needs of Native American communities, and meeting international commitments." Unlike other water supply or wastewater treatment programs run by the EPA, USDA, or HUD, the Bureau's Title 16 projects are

statutorily authorized projects. While the Bureau has the authority to undertake general appraisal investigations and feasibility studies, it has interpreted the Title 16 language as requiring specific congressional authorization for the construction of new projects.

Funding. The total program appropriation for FY2003 is $30.6 million. The FY2002 appropriation was $36.0 million, the FY2001 appropriation was $30.6 million, the FY2000 appropriation was $33.4 million, the FY1999 appropriation was $35.5 million and the FY1998 appropriation was $47.2 million. Projects authorized prior to the 1996 amendments ranged in size from $152 million ($38 million for the Bureau's share), to $690 million ($172 million for the Bureau's share). Post-1996 projects have been much smaller in size, ranging in size from $10 million ($2 million for the Bureau's share) to $280 million ($20 million for the Bureau's share). The Bureau has stated in the past that its main budget focus will be on projects that have been supported in prior years. The Senate Committee on Appropriations noted, in report language accompanying FY1998 Energy and Water Development Appropriations, its concern about the potential costs of this program and noted that local sponsors who proceed on their own prior to a federal commitment to the project "do so at their own risk" (S. Rpt. 105-44). The Committee also noted its support of the Bureau's efforts to develop criteria to prioritize the authorized projects currently awaiting funding.

Funding for the projects has been somewhat controversial recently. The Administration has proposed $12.6 million in funding for FY2004, which is 65% less than enacted for FY2002 and 59% less than enacted for FY2003. According to the Office of Management and Budget, the funding has been scaled back because the "program serves a function that is a local responsibility."

Statutory and Regulatory Authority. The statutory authority for the reclamation wastewater and reuse program is the Reclamation Wastewater and Groundwater Study and Facilities Act, Title 16 of P.L. 102-575, as amended (43 U.S.C. 390h et. seq.); the Reclamation Recycling and Water Conservation Act of 1996 (P.L. 104-266); the Oregon Public Land Transfer and Protection Act of 1998 (P.L. 105-321); the Consolidated Appropriations Act for FY2001 (P.L. 106-554, Division B, section 106); a bill amending the Reclamation Wastewater and Groundwater Study and Facilities Act (P.L. 107-344); and the Consolidated Appropriations Act for FY2003 (P.L. 108-7, Division D, section 211). The Bureau published program guidelines in December 1998; formal regulations have not been promulgated. For information, see [http://www.usbr.gov/main/programs/index.html] or [http://aspe.os.dhhs.gov/cfda/p15504.htm].

Department of Defense

Army Corps of Engineers (Civil Works Program)

Under its civil works program, the U.S. Army Corps of Engineers (Department of Defense) operates hundreds of flood control, navigation, and multipurpose projects throughout the country. Although federally constructed water reservoirs operated by

the Corps supply a great deal of water for municipal and industrial uses, the agency has only been given a limited, secondary role in planning for that function among its primary responsibilities for inland navigation and flood control.

The Water Supply Act of 1958 (Title 3 of Public Law 85-500) first authorized the Army Corps of Engineers (Corps) to recommend economically justified municipal and industrial storage space in new or existing reservoirs. The Corps' authority under the Water Supply Act of 1958 is a function arising from multi-purpose projects that were initially justified on the basis of transportation, flood control, hydropower, recreation, or fish and wildlife benefits. Although it is possible to retrofit previously constructed projects to supply M&I users, the planning for such needs is not an explicit responsibility of the Corps. In its policy manual (Engineer Publication 1165-2-1), the agency states that it "recognizes a significant but declining federal interest in the long range management of water supplies and assigns the financial burden of supply to users." Nonetheless, at last report, more than 112 Corps reservoirs stored 9.3 million acre-feet of municipal and industrial (M&I) water under repayment contracts with local, non-federal users.

Congress has also authorized the Corps to assist specific local communities with municipal water supply and treatment needs not necessarily associated with other Corps projects. Section 219 of the Water Resources Development Act of 1992 (WRDA, P.L. 102-580), and the subsequent expansion of the authorizations under this section in the Water Resources Development Act of 1999 (P.L. 106-53), authorized the Corps to assist local interests with *technical planning and design assistance* for "environmental infrastructure and resource protection" projects, which include an array of water supply, storage, distribution, and treatment facilities. Out of 43 specific §219 projects described in §502 of WRDA 1999, 15 were to "eliminate or control combined sewer overflows" and six were for water and wastewater infrastructure.

Beginning with Section 313 of WRDA 1992, there have also been a number of projects and programs that have received authorizations for *design and construction assistance* for environmental infrastructure, including wastewater treatment and water supply facilities and surface water resource protection and development. In WRDA 1996 (P.L. 104-303), four new local infrastructure programs were authorized, including watershed protection efforts to benefit the Chesapeake Bay and the drinking water sources supplying New York City. The WRDA of 1999 authorized seven new project areas – including statewide eligibility for Alaska, Mississippi, Ohio, and Montana, while raising the funding ceilings and availability of direct grants for most of the previous designations. A similar pattern emerged during consideration of the WRDA 2000 bill; however, most of the new authorizations were stripped from the final bill and were included instead in the FY2001 Consolidated Appropriations Act (P.L. 106-554, Division B, section 108). No WRDA was enacted by the 107th Congress; however, the omnibus appropriations bill for FY2003 (P.L.108-7) included some environmental infrastructure provisions. For example, the authorization for municipal water infrastructure projects in rural Nevada was increased from $25 million to $100 million, and a $25 million authorization for Idaho was added. The omnibus appropriations bill also included appropriations for some environmental infrastructure projects, such as $10 million for rural Nevada and $1 million for rural Montana. The Bush Administration's budget request for the Corps

for FY2004 provided no funds for studies or construction of local environmental infrastructure facilities.

Overall, appropriations have not kept pace with the hundreds of WRDA provisions enacted during the 1990s; however, the original "pilot/demonstration" recipients – notably a large number of counties in Pennsylvania and West Virginia with total authorized ceilings of $180 million and $40 million respectively and perhaps reflecting some economically distressed conditions – have received sizable amounts of earmarked funds (in a mix of grants and/or reimbursements). As with the rural water supply and Title 16 projects of the Bureau, the future implementation of authorized local infrastructure projects has the potential to create an altogether new (and perhaps competing) mission to the Corps' traditional emphasis on navigation and flood control and its newer environmental restoration mission. Because the project authorizations are generally site-specific and are funded individually through congressional appropriations and are not part of a Corps program *per se*, there are no clear and/or consistent project or program criteria.

Water Supply Act Projects. The following describes projects carried out under the Water Supply Act of 1958.

Project Purposes. To allow use of multi-purpose Corps reservoirs to allocate "excess" supplies of stored water to local governments or organizations for municipal and industrial use.

Financing Mechanism. Projects are financed up front by the federal government, and costs for M&I project purposes are repaid 100%, with interest, via long-term (typically 30-50 year) repayment contracts.

Eligibility Requirements. The Water Supply Act, as amended in 1986, requires that: 1) water supply benefits and costs be equitably allocated among multiple purposes; 2) repayment by state or local interests be agreed to before construction; 3) the water supply allocation for anticipated demand at any project not exceed 30% of the total estimated cost; 4) repayment shall be either during construction (without interest), or over 30 years (with adjustable interest rates); and 5) users reimburse the Corps annually for all operation and maintenance or replacement costs. Those required conditions reflect changes adopted in the Water Resources Development Act of 1986, which reaffirmed a 100% non-federal cost share for water supply projects with the up front agreement; limited assistance for "future" storage to 30%; reduced the repayment period from 50 to 30 years; and added the yearly operation and maintenance reimbursement.

Occasional exceptions--albeit increasingly frequent--to the Corps' general authority have been enacted by the Congress to provide individual instances of relief in hardship circumstances and to target federal financial or technical assistance to demonstration projects defined by environmental restoration or water conservation objectives. Otherwise, the Corps' general direct involvement in providing water supplies is limited to emergency/disaster relief, including drought conditions. (Some short-term sales of "surplus" storage, as well as seasonal water storage (conservation) can be made adjunct to normal project operating procedures.)

Funding. The Corps' general water supply contribution is considered to be totally self-supported, based on repayments, and is not published in budget documents.

Statutory and Regulatory Authority. Water Supply Act of 1958 (Title III of P.L. 85-500, as amended, 72 Stat. 320; 43 U.S.C. § 390b). For information on the Corps' civil works program, see: [http://www.usace.army.mil/public.html#Civil].

Department of Agriculture

Rural Utilities Service (Water and Waste Disposal Programs)

The USDA also administers grant and loan programs for water and wastewater projects. Funds are limited to communities of 10,000 or less. USDA prefers making loans to finance water and waste disposal projects; grants are made only when necessary to reduce average annual charges to a reasonable level.

These programs are administered at the national level by the Rural Utilities Service (RUS) at USDA. RUS allocates program funds to the Rural Economic and Community Development (RECD) state offices through an allocation formula based on rural population, poverty, and unemployment. District RECD offices actually administer the programs locally. In recent years, approximately 65% of loan funds and 57% of grant funds have been obligated to water projects; the remainder have been obligated to waste disposal projects. RUS also administers USDA's "Water 2000 Initiative" to bring safe, affordable drinking water to all rural areas by the year 2000. Funding for Water 2000 comes from the core water and waste disposal program.

There is heavy demand for water and waste disposal funds. In January 2000, RUS had approximately $2.3 billion in loan applications and $1 billion in grant applications for its water and waste disposal assistance programs.[5] In addition to this, EPA's 2001 Drinking Water Infrastructure Needs Survey showed over $31 billion needed by small water systems serving 3,300 or fewer people over the next 20 years to install, upgrade, or replace infrastructure to ensure safe drinking water. The 1996 EPA Wastewater Needs Survey reported that small communities with a population under 10,000 need to spend $13.8 billion by the year 2016 for their wastewater facilities to be in compliance with the Clean Water Act.

Program Purpose. The purpose of these programs is to provide basic human amenities, alleviate health hazards, and promote the orderly growth of the nation's rural areas by meeting the need for new and improved rural water and waste disposal

---

[5]U.S. Department of Agriculture. *2001 Budget. Explanatory Notes for the Committee on Appropriations.* Vol. 2: 22-22, 22-23. The 2002 farm bill (P.L. 107-171) authorized USDA to use $360 million in Commodity Credit Corporation monies for a one-time reduction in the backlog of qualified, pending grant and loan applications for water systems and waste disposal systems.

facilities. Funds may be used for installation, repair, improvement, or expansion of rural water facilities, including costs of distribution lines and well-pumping facilities.

Financing Mechanism. USDA provides grants and loans for water and waste disposal projects. There is no statutory formula. Funds are allocated to states based upon rural population, number of households in poverty, and unemployment. There are no matching requirements.

Water and Waste Disposal Loans. The Rural Development Act of 1972 authorized establishment of the Rural Development Insurance Fund under the Consolidated Farm and Rural Development Act. Among other activities, this fund is used for loans (direct and guaranteed) to develop storage, treatment, purification, or distribution of water or collection, treatment, or disposal of waste in low-income rural areas. Loans are repayable in not more than 40 years or the useful life of the facilities, whichever is less. USDA makes either direct loans to applicants or guarantees up to 80% of loans made by third-party lenders.

Loan interest rates are based on the community's economic and health environment and are designated poverty, market, or intermediate. The poverty interest rate currently is 4.5%, and such loans are made in areas where the median household income (MHI) falls below the higher of 80% of the statewide nonurban MHI or the poverty level and the project is needed to meet health or sanitary standards. The market rate is adjusted quarterly and is set using the average of a specified 11-bond index. It applies to loans to applicants where the MHI of the service area exceeds the statewide nonurban MHI. The intermediate rate is the poverty rate plus one-half of the difference between the poverty rate and the market rate for municipal bonds, not to exceed 7%. This rate applies to loans that do not meet the criteria for the poverty rate and which do not have to pay the market rate.

Water and Waste Disposal Grants. Grants for the development costs of water supply and waste disposal projects in rural areas also are authorized under the Consolidated Farm and Rural Development Act. Only communities with poverty and intermediate rate incomes qualify for USDA grants. An eligible project must serve a rural area which is not likely to decline in population below that for which the project was designed and constructed so that adequate capacity will or can be made available to serve the reasonably foreseeable growth needs of the area.

Grant funds may be available for up to 75% of the development cost of a project to reduce user costs to a reasonable level. Grants may be used to supplement other funds borrowed or furnished by applicants for project costs, and may be combined with loans when the applicant is able to repay part, but not all, of the project costs.

Emergency and Imminent Community Water Assistance Grants. RUS also is authorized to help rural residents where a significant decline in quantity or quality of drinking water exists or is imminent and funds are needed to obtain adequate quantities of water that meet standards of the Safe Drinking Water Act or the Clean Water Act. Grants, ranging from $10,000 to a maximum of $500,000, are provided for projects to serve a rural area with a population of 10,000 or less that has a median household income not in excess of the statewide nonmetropolitan median household income. Grants for repairs, partial replacement, or significant

maintenance of an established system cannot exceed $150,000. Communities use the funds for new systems, waterline extensions, construction of water sources and treatment facilities, and repairs or renovation of existing systems and may be made for 100% of project cost. Applicants compete on a national basis for available funding. Amounts provided through this program have been quite variable over time. In FY2002, emergency grants totaling $2.96 million were made by RUS to projects in six states. In FY2001, grants totaling $20 million (one-half for projects related to natural disasters) were made, while one grant was made in FY2000 for $200,000. The 2002 farm bill (Farm Security and Rural Investment Act of 2002, P.L. 107-171) authorized $35 million per year through FY2007 for this program and made funding for it mandatory through reservation of 3 to 5% of appropriated water and waste disposal grant funds.

Eligibility Requirements. Eligible entities are municipalities, counties, and other political subdivisions of a state; associations, cooperatives,[6] and organizations operated on a not-for-profit basis; Indian tribes on federal and state reservations; and other federally recognized tribes are eligible to apply for assistance. USDA's loan and grant programs are limited to community service areas (including areas in cities or towns) with population of 10,000 or less. To be eligible for assistance, communities must have been denied credit through normal commercial channels. Also, communities must be below certain income levels. Loans and grants are made for projects needed to meet health or sanitary standards, including clean water standards and Safe Drinking Water Act requirements. The 2002 farm bill (P.L. 107-171) authorized $10 million per year through FY2007 for USDA to make grants to private nonprofit organizations for the purpose of providing loans to eligible individuals for construction, refurbishing, and servicing of individual household water well systems owned by the eligible individuals. Loans are limited to $8,000 per water-well system. It also authorized $30 million annually through FY2007 in grants to nonprofit organizations to capitalize revolving loans for water and waste disposal facilities.

Funding. From FY1991 to FY2000, USDA provided about $12.5 billion under its rural water and waste disposal loan and grant programs.[7] Prior to enactment of the 1996 farm bill (P.L. 104-127), these grants and loans, as well as other USDA rural development assistance, were authorized as separate programs. In P.L. 104-127, Congress consolidated 14 existing grant and loan programs into three categories for better coordination and greater local involvement. The new program is called the Rural Community Advancement Program (RCAP). The three components are the

---

[6]Rural electric cooperatives are private entities that build and manage rural utility systems. The 1990 farm bill (P.L. 101-624) authorized rural coops to expand from their traditional electricity and telephone services. An estimated 80 to 90 rural electric coops (less than 10% of the total number of coops nationwide) currently are involved in some aspect of drinking water or wastewater management, with the majority dealing with drinking water management.

[7]GAO Water Infrastructure: 10-11.

Rural Utilities, Rural Community Facilities, and Rural Business and Cooperative Development programs.[8]

Beginning with USDA's FY1996 appropriation (P.L. 104-37), Congress consolidated the water and waste disposal grant and loan appropriations in a single Rural Community Assistance Program. Funds appropriated for the Rural Community Assistance Program for FY2001 and FY2002 were, respectively, $713 million (including $70 million in emergency supplemental funding) and $647 million. For FY2003, the Bush Administration requested $679 million for the water and waste disposal grants and loans of the Rural Utilities program. In P.L. 108-7, the FY2003 omnibus appropriations act, Congress provided $719 million for rural utilities programs, including the water and waste disposal grant and loan programs under the Rural Community Assistance Program. For FY2004, the President's budget requests $381.1 million in appropriations for the water and waste disposal programs. According to the budget justification, substantially the same program level can be maintained because, with the relatively low interest rate on loans, more projects should be feasible with loans than grants, and the overall program should be able to operate at a much higher loan-to-grant ratio and thus a lower federal subsidy.[9]

Statutory and Regulatory Authority. Statutory authority for the water and waste disposal loan and grant programs is the Consolidated Farm and Rural Development Act, as amended, Section 306, 7 U.S.C. 1926. Regulations for both programs are located at 7 CFR Part 1780. For additional information on RUS water and environmental programs, see: [http://www.usda.gov/rus/water/index.htm].

Natural Resources Conservation Service (Small Watershed Program)

The United States Department of Agriculture (USDA) Watershed and Flood Prevention Operations Program (often referred to as the Small Watershed Program) authorizes activities under several closely-related authorities that are administered by the Natural Resources Conservation Service (NRCS). Two of these authorities, known as P.L. 566 and P.L. 534, authorize NRCS to provides technical and financial assistance to state and local organizations to plan and install measures to prevent erosion, sedimentation, and flood damage and to conserve, develop, and utilize land and water resources. The other authorities are an emergency program and a new rehabilitation authority that are discussed briefly below.

This set of activities is often referred to as the Small Watershed Program because the vast majority of the projects have been built under the authority of P.L. 566, the Watershed Protection and Flood Prevention Act of 1954. This Act

---

[8]RCAP is designed to give RECD state offices flexibility in targeting financial assistance to community and regional needs. Thus, within the three components of RCAP, up to 25% of funds can be transferred between programs within any state, as long as transfers do not result in changes in the national funding stream of more than 10%.

[9] U.S. Department of Agriculture. *2004 Budget. Explanatory Notes for the Committee on Appropriations*. Vol. 2: 22-28.

encourages smaller projects which are authorized by the Chief of the NRCS. Larger projects must be approved by Congress. The Senate and House Agriculture Committees must approve projects that need an estimated federal contribution of more than $5 million for construction and include a storage structure with a capacity in excess of 2,500 acre feet; and if the storage structure has a capacity in excess of 4,000 acre feet, approval is also required from the Senate Environment and Public Works Committee and the House Transportation and Infrastructure Committee.

Under P.L. 566, approximately 1,732 projects had been authorized through FY2002. Of that total, 965 have been completed, while 549 others are active. Also, 159 were subsequently deauthorized, 19 are inactive, and 40 have reached the end of their project life. The number of projects continues to grow, but slowly. In FY2002, 8 new projects were authorized for funding, with a total federal cost of just under $30 million and local cost of almost $17 million.

Almost all the P.L. 566 projects (1704 of 1732) are designed to provide flood control benefits. About half the projects provide multiple benefits. Other benefits include watershed protection (465 projects), drainage (307), recreation (297), municipal water(192), irrigation (99), water quality (30), and rural water (17). Projects supporting municipal water supply are located in at least 31 states. States with at least 10 such projects include Georgia (22), Oklahoma (14), Virginia (14), Arkansas (10), Kansas (10), and Kentucky (10). Projects are authorized in every state, but relatively few are located in the 17 western states. An NRCS representative indicated that municipal water supply was more popular in earlier years, and that project sponsors have not been proposing this as a purpose as frequently in recent years.

Each P.L. 566 project is initiated by a local project sponsor. Project sponsors provide assistance in preparing plans and installing whatever measures are needed to implement those plans. The NRCS works with the project sponsor to develop the plan, provides the necessary technical assistance, and may assist in all aspects of planning and construction. Either NRCS or the local organization may administer construction contracts.

The 11 projects that were specifically authorized under P.L. 534 are each much larger and more expensive than P.L. 566 projects. These projects, which encompass a total of more than 35.4 million acres, about the same size as Iowa, are divided into component projects in sub-watersheds. NRCS reports that 319 work plans for sub-watersheds encompassing more than 24 million acres have been completed. This is about 74% of the estimated total planning work load. With the exception of the smallest project, the estimated federal costs for these projects range from $18 million to more than $330 million. Two of the projects have been completed, and work on the remainder continues in one or more sub-watersheds.

Both laws have similar objectives and are implemented following similar procedures. Both programs fund land treatment, and nonstructural and structural facilities for flood prevention, erosion reduction, agricultural water management, public recreation development, fish and wildlife habitat development, and municipal or industrial water supplies. Structural measures can include dams, levees, canals, pumping plants, and the like. Local sponsors agree to operate and maintain

completed projects. USDA estimates that benefits to the country totaled $1.75 billion in FY2002, but data are not presented at a level of detail that allows identification of a single type of benefit, such as municipal water supply.

As a part of its lending responsibilities, the Rural Utilities Service (RUS) at USDA (see discussion above) can make loans to local organizations to finance the local share of the cost of installing, repairing, or improving facilities, purchasing sites and rights-of-way, and related costs for projects authorized under both laws. Loans are limited to $10 million. No loan can be made before a plan of work has been agreed to by NRCS and the local organization. Loans must be repaid within 50 years. Currently, 102 borrowers are holding loans with a total value approaching $29 million, but there has been no new loan activity for many years. Available data do not show how many loans, or what value of loans, have been applied to water supply purposes.

Some of the oldest projects that have exceeded their design life (the design life is 50 years, and dams were constructed starting in 1948) will need rehabilitation work to continue to protect public health and safety by reducing any possibility of dam failure, and to meet changing resource needs. In response to that concern, Congress passed a new rehabilitation program in section 313 of the Grain Standards and Warehouse Improvement Act of 2000 (P.L. 106-472) as an amendment to the 1954 law. It authorized appropriations of $5 million in FY2001, increasing each year to $35 million in FY2005, to make structural improvements to meet safety and performance standards and extend the life of the project. It requires the federal government to pay 65% of the total rehabilitation costs but no more than 100% of the original actual construction cost, and prohibits spending for operations and maintenance. Rehabilitation projects also provide an opportunity to modify projects to provide additional benefits, including municipal water supplies.

This rehabilitation program has allocated almost $24 million since FY2000 to 80 projects in 20 states. Almost half these projects are in 4 states where the program was initially implemented on a pilot bases – Mississippi, New Mexico, Ohio, and Wisconsin. By the end of FY2002, 6 projects had been completed; all of them are located in the 4 pilot states.

Also during 2002, Congress amended this program in section 2505 of the 2002 farm bill (P.L. 107-171) to provide higher and increasing levels of discretionary funding through FY2007, and also mandatory funding for the first time. The mandatory funding level would gradually rise to $65 million in FY2007 then drop to $0 in FY2008, while the discretionary funding level would also gradually rise to $85 million in FY2007.

Project Purposes. The purpose of the program is to provide technical and financial assistance to states and local organizations to plan for, install, and rehabilitate watershed projects. Project purposes may include watershed protection, flood prevention and control, water quality improvements, soil erosion reduction, rural municipal and industrial water supply, fish and wildlife habitat enhancement, and water conservation. As described above, almost all projects address flood prevention and control.

Financing Mechanism. Partial project grants, plus provision of technical advisory services. Federal financing for water projects under the small watershed program varies depending on project purposes. The federal government pays all costs related to construction for flood control purposes only, but pays up to 50% of agricultural water management, public recreation and fish and wildlife purposes and none of the costs for certain other nonagricultural water management purposes. Costs for non-agricultural water supply must be repaid by local organizations; however, up to 50% of costs for land, easements, and rights-of-way allocated to public fish and wildlife and recreational developments may be paid with program funds. In addition, sponsors may apply for USDA Rural Utilities Service (RUS) Water and Waste Program loans to finance the local share of project costs. Participating state and local organizations pay all operating and maintenance costs.

Eligibility Requirements. State agencies and qualified local organizations can apply to participate in this program and to sponsor or cosponsor an application. Qualified organizations include soil and water conservation districts; municipalities; counties; watershed, flood-control, conservancy, drainage, irrigation, or other special purpose districts; Indian tribal organizations, irrigation and reservoir companies, water users associations, or similar organizations not operated for profit. Other organizations can endorse project applications. To be eligible for funding, a proposed project must meet several criteria including: (1) have an approved watershed plan, (2) have environmental, economic, and social benefits that exceed project costs; and (3) have no critical environmental issues.

There are no population or community income-level limits on applications for the Small Watershed Program; however all projects must have flood control as one of their purposes and must be located within small watersheds (250,000 acres or less).

Funding. The budget request for FY2003 did not seek any funding for watershed protection and flood prevention operations. Instead, it included a request for $110 million for Emergency Watershed Protection, so that the funds would be available to respond to emergency situations. Congress rejected this proposal in the agriculture title of the Consolidated Appropriations Resolution, 2003 (P.L. 108-7). Instead, it provided $108.3 million for Watershed and Flood Prevention Operations, $29.8 million for Watershed Rehabilitation (and in section 740 of the general provisions, prohibited any mandatory funding that had been authorized for this program in the 2002 farm bill), and no funding for Emergency Watershed Protection or loan activity. As in previous years, it included numerous earmarks. Limits placed on Watershed and Flood Prevention Operations funding included no more than $45 million for technical assistance and no more than $1 million to carry out activities related to the Endangered Species Act. For FY2004, the Administration is requesting a total of $40 million.

Historically, watershed funding has varied a great deal from year to year. In the late 1980s and early 1990s, annual appropriations averaged around $160 million. Some consider this program to be a public works effort which supports local employment and economic development, while others consider it to be a "pork barrel" program which provides support to projects that are frequently of limited merit. In most years recently, the Administration (regardless of which party has

controlled the White House) has requested significant funding reductions that Congress has rejected. Because the primary purpose of the program is flood control, it has often received emergency supplemental funding. For example, in the FY2000 Consolidated Appropriations Act (P.L. 106-113), Congress provided an additional $80 million for the Emergency Watershed Protection Program established to respond to emergencies created by natural disasters.

Statutory and Regulatory Authorities. The Flood Control Act of 1944, P.L. 78-534, as amended, 58 Stat. 907 (33 U.S.C. 701b-1); Watershed Protection and Flood Prevention Act of 1954, P.L. 83-566, as amended, 68 Stat. 666 (16 U.S.C. 1001-1006). Regulations are located at 7 CFR 622. For additional information, see [http://aspe.os.dhhs.gov/cfda/p10904.htm].

Environmental Protection Agency

Clean Water State Revolving Fund Loan Program

The Clean Water Act prescribes performance levels to be attained by municipal sewage treatment plants in order to prevent the discharge of harmful wastes into surface waters. The Act also provides financial assistance, so that communities can construct treatment facilities in compliance with the law, which has the overall objective of restoring and maintaining the chemical, physical, and biological integrity of the nation's waters.

In historic terms, funding under the Clean Water Act has been the largest federal program for wastewater treatment assistance. Since 1973, Congress has appropriated $73 billion. Funds are distributed to states under a statutory allocation formula and are used to assist qualified projects on a priority list that is determined by individual states. These funds are used to assist states and localities in meeting wastewater infrastructure needs most recently estimated by EPA and states at $137 billion nationally, through the year 2016.

In 1987 Congress amended the Clean Water Act (P.L. 100-4) and initiated a new program to support through capitalization grants State Water Pollution Control Revolving Funds (SRFs). Prior to 1989 (when the SRF program became effective), states used their allotments to make grants to cities and other eligible recipients. Since 1989, federal funds (federal grants of appropriated funds) have been used to capitalize state loan programs, or SRFs, with states providing funds equal to 20% of the federal funds to capitalize the SRF. All 50 states, plus Puerto Rico, participate in the clean water SRF program. Over the long term, the loan programs are intended to be sustained through repayment of loans to states, thus creating a continuing source of assistance for other communities. Rural and non-rural communities compete for funding; rural areas have no special priority, nor are states required to reserve any specific percentage for projects in rural areas. Nevertheless, rural areas are not shut out of the program. EPA data indicate that since 1989, nationally, 55% of all loans made have gone to assist communities with 10,000 people or fewer.

Program Purpose. The clean water SRF program is intended to provide assistance in constructing publicly owned municipal wastewater treatment plants, implementing nonpoint pollution management programs, and developing and implementing management plans under the National Estuary Program.

Financing Mechanism. Clean water SRFs may provide seven general types of financial assistance: making loans; buying or refinancing existing local debt obligations; guaranteeing or purchasing insurance for local debt obligations; guaranteeing SRF debt obligations (i.e., to be used as security for leveraging the assets in the SRF); providing loan guarantees for sub-state revolving funds; earning interest on fund accounts; and supporting reasonable costs of administering the SRF. States may not provide grants from an SRF. Loans are made at or below market interest rates, including zero interest loans, as determined by the state in negotiation with the applicant. All principal and interest payments on loans must be credited directly to the SRF.

Eligibility Requirements. Eligible loan recipients are any municipality, intermunicipal, interstate, or state agency.

Projects or activities eligible for funding are, initially, those needed for constructing or upgrading publicly owned municipal wastewater treatment plans. As defined in Clean Water Act section 212, devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage are eligible. These include construction or upgrading of secondary or advanced treatment plants; construction of new collector sewers, interceptor sewers or storm sewers; and projects to correct existing problems of sewer system rehabilitation, infiltration/inflow of sewer lines, and combined sewer overflows. Operation and maintenance is not an eligible activity. All funds in the clean water SRF resulting from federal capitalization grants are first to be used to assure maintenance of progress toward compliance with enforceable deadlines, goals, and requirements of the Act, including municipal compliance. Following compliance with the "first use" requirement, funds may be used for implementing nonpoint source management programs and estuary activities in approved State Nonpoint Management Programs and estuarine Comprehensive Conservation and Management Plans, respectively.

Hardship Grants Program for Rural Communities. EPA also administers a small grant program to help small, disadvantaged rural communities with fewer than 3,000 people address their wastewater treatment needs. A community can qualify for hardship assistance if it meets certain criteria: it lacks access to centralized wastewater treatment or collection systems or needs improvements to on-site treatment systems; a proposed project will improve public health or reduce environmental risk; the community's per capita income is less than 80% of the national average; and its unemployment rate exceeds the national average by 1 percentage point or more. The hardship grants program is intended to complement the clean water SRF program, because states assist eligible rural communities by supplementing an SRF loan with hardship grant assistance. States have flexibility in how they manage the hardship grants program and are responsible for selecting projects. For example, in addition to construction projects, states may use hardship assistance to provide training, technical assistance, and education programs on the operation and maintenance of wastewater treatment systems. The

program began with a $50 million appropriation in FY1996 (P.L. 104-134), and funds remain available until expended. Through June 2001, $41.4 million in hardship grants had been awarded to 79 projects nationwide. Many communities that receive hardship grants use the funds in combination with SRF loan assistance.

"Wet Weather" Projects. In 2000, Congress authorized separate Clean Water Act grant funding for projects to address overflows from municipal combined sewer systems and from municipal separate sanitary sewers. Overflows from these portions of municipal sewerage systems can occur especially during rainfall or other wet weather events and can result in discharges of untreated sewage into local waterways. This program, contained in the FY2001 Consolidated Appropriations Act (P.L. 106-554, Division B, section 112), authorized $750 million per year in FY2002 and FY2003. The funds would only be available for appropriation if Congress also appropriated at least $1.35 billion in each of the years for the clean water SRF program. Under the program, grants to a municipality or municipal entity could be used for planning, design, and construction of treatment works to intercept, transport, control, or treat municipal combined and separate sewer overflows. However, no funds were appropriated for this program either in FY2002 or FY2003; thus, wet weather projects continue to compete with other water infrastructure projects for available Clean Water Act funds.

Funding. Since the first congressional appropriations for the clean water SRF program in FY1989, Congress has provided $20.4 billion in grants to capitalize SRFs. Most recently, Congress appropriated $1.35 billion annually for fiscal years 2000 through 2002 and $1.34 billion for FY2003 (P.L. 108-7). For FY2004, the President's budget requests $850 million for the clean water SRF program. Through June 2001, federal funds, together with state matching contributions and repaid loans, had been used for $34.3 billion in SRF assistance to support 10,919 SRF loans and debt refinance activity. Since 1989, 55% of all loans made (comprising 24% of total funds loaned) have gone to assist communities with populations of 10,000 or less.

Statutory and Regulatory Authority. Statutory authority for the clean water SRF program is the Clean Water Act, as amended, Sections 601-607, 33 U.S.C. 1381-1387. Regulations are located at 40 CFR §35.3100. For additional information, see [http://www.epa.gov/owm/finan.htm].

Drinking Water State Revolving Loan Fund Program

The Safe Drinking Water Act (SDWA) requires public water systems to comply with federal drinking water regulations promulgated by EPA. Through these regulations, EPA has set standards to control the levels of approximately 90 contaminants in drinking water, and more regulations under development. To help communities meet these federal mandates, Congress amended the SDWA in 1996 to establish a drinking water state revolving loan fund (DWSRF) program. The program is patterned closely after the clean water SRF, and authorizes EPA to make grants to states to capitalize drinking water state revolving loan funds. States use their DWSRFs to provide assistance to public water systems for drinking water projects.

States must match 20% of the federal capitalization grant and develop annual intended use plans that indicate how allotted funds will be used (including a project priority list). The law generally directs states to give funding priority to projects that: 1) address the most serous health risks; 2) are needed to ensure compliance with SDWA regulations; and 3) assist systems most in need on a per household basis, according to state affordability criteria. Additionally, states must make available at least 15% of their annual allotment to public water systems that serve 10,000 or fewer persons (to the extent the funds can be obligated to eligible projects). In FY2002, roughly 71% of DWSRF loans and 33% of funds went to small systems.

Grants are allotted among the states according to the results of the most recent quadrennial survey of the capital improvements needs of eligible water systems. Needs surveys are prepared by EPA and the states, and the most recent survey (2001) estimated that public water systems need to invest a minimum of $150.9 billion over the next 20 years to ensure the provision of safe drinking water.

Program purpose. This state-administered program provides assistance for infrastructure projects and other expenditures that facilitate compliance with federal drinking water regulations or that promote public health protection or source water protection.

Financing Mechanism. States may use the DWSRF to make low- or zero-interest loans to public water systems, and loan recipients generally must repay the entire loan plus any interest. DWSRFs may also be used to buy or refinance local debt obligations, to guarantee or purchase insurance for a local obligation, as a source of revenue or security for payment of principal and interest on state revenue or general obligation bonds if the proceeds of the sale of the bonds are deposited into the DWSRF, and to earn interest on DWSRF accounts. States also may use up to 30% of their annual DWSRF grant to provide additional subsidies (e.g., principal forgiveness and negative interest rate loans) to help economically disadvantaged communities of any size. (A disadvantaged community is one in which the service area of a public water system meets affordability criteria established by the state.)

Eligibility Requirements. Drinking water systems that are eligible to receive DWSRF assistance include community water systems, whether publicly or privately owned, and not-for-profit noncommunity water systems. Federally-owned systems are not eligible to receive assistance from this program.

Projects eligible for DWSRF assistance include: 1) capital investments to upgrade or replace infrastructure in order to continue providing the public with safe drinking water; 2) projects needed to address violations of SDWA regulations; and 3) projects to replace aging infrastructure (e.g., source water improvement projects and treatment facilities, storage facilities, transmission and distribution pipes, and consolidation with other systems). Assistance may also be available for land acquisition, project design and planning, and implementing security measures.

Projects and activities not eligible for funding include projects primarily intended to serve future growth or to provide fire protection, construction of dams or reservoirs (except reservoirs for finished (treated) water), monitoring, and operation and maintenance. Ineligible systems include those that lack the financial, technical

or managerial capacity to maintain SDWA compliance and systems in significant noncompliance with any SDWA regulation (unless the project is likely to ensure compliance).

Funding. The Act authorized appropriations for DWSRF capitalization grants at a level of $599 million for FY1994 and $1 billion annually for FY1995 through FY2003, for a total appropriations authority of $9.6 billion. Since the program was first funded in FY1997, Congress has appropriated $6.1 billion, including $844.5 million for FY2003. The President has requested $850 million for FY2004. Through June 2002, states had received $4.4 billion in capitalization grants. This amount, combined with the 20% state match, bond proceeds, and other funds, provided a total of $6.7 billion in DWSRF funds available for providing loans and other assistance. Through June 30, 2002, states had made more than 2,400 loans totaling $5.1 billion.

Statutory and Regulatory Authority. The statutory authority for the SRF program is the Safe Drinking Water Act Amendments of 1996 (P.L. 104-182, Section 1452, 42 U.S.C. 300j-12). EPA promulgated an interim final rule for the program on August 7, 2000 (65 FR 48285), and adopted it as final on January 12, 2001 (66 FR 2823). Regulations are located at 40 CRF 35.3500. The regulation and DWSRF facts and figures are available at [http://www.epa.gov/safewater/dwsrf.html]. For more program information and contacts, see [http://aspe.os.dhhs.gov/cfda/p66468.htm].

Department of Housing and Urban Development

Community Development Block Grants

The Department of Housing and Urban Development (HUD) administers assistance primarily under the Community Development Block Grant (CDBG) program. CDBG funds are used by localities for a broad range of activities intended to result in decent housing in a suitable living environment. Water and waste disposal needs compete with many other public activities for this assistance, including historic preservation, energy conservation, housing construction, lead-based paint abatement, urban renewal projects, recreation facilities, home ownership assistance, and others. Program policy requires that at least 70% of funds must benefit low/moderate-income persons.

After subtracting amounts specified in appropriations acts for special-purpose activities, 70% of CDBG funds are allocated by formula to entitlement communities, defined as central cities of metropolitan areas, metropolitan cities with populations of 50,000 or more, and statutorily defined urban counties (the entitlement program). Thus, these funds are not available for projects in rural communities. The remaining 30% of CDBG funds (approximately $1.3 billion in recent years) is allocated by formula to the states for distribution to nonentitlement, smaller communities (the state program), and these funds may be available for rural community water projects. The 70/30 split and allocation formulas are provided for in law. According to 1997 data from HUD, among states, public facilities projects accounted for the largest expenditure of funds (58.1%), followed by housing (19.6%) and economic development (16.7%). Public facilities cover a range of projects including water and

sewer facilities, streets, and neighborhood centers. According to the General Accounting Office, from FY1991 through FY2000, HUD provided over $4 billion in block grants, plus $39.9 million for projects specified in appropriations laws, for drinking water and wastewater projects.[10]

Program Purpose. The primary goal of this program is the development of viable communities by providing decent housing, a suitable living environment, and expanding economic opportunities, principally for low and moderate income persons.

Financing Mechanism. In the CDBG program for smaller communities, grants are distributed to units of general local government which implement approved activities. States may retain a percentage of funds to cover the costs of administering the program and providing technical assistance to local governments and nonprofit organizations.

Eligibility Requirements. Eligibility is determined by the entity which actually makes grants awards, not by federal law or regulations. Under the state program which assists smaller communities, states develop their own programs and funding priorities and have considerable latitude to define community eligibility and criteria, within general criteria in law and regulations. State grantees must ensure that each activity meets one of the program's three national objectives: benefitting low- and moderate-income persons (the primary objective), aid in the prevention or elimination of slums or blight, or assisting other community development needs that present a serious and immediate threat to the health or welfare of the community.

Funding. For FY2003, Congress provided $4.3 billion for CDBG funds (the same as FY2002 funding), of which approximately $1.3 billion is available for smaller communities under the state program. For FY2004, the President's budget requests $4.4 billion for the CDBG program.

Statutory and Regulatory Authority. Statutory authority for the CDBG program is Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.). Regulations are located at 24 CFR Part 570. Regulations covering the CDBG state program are located at 24 CFR Part 570, Subpart I (§570.480). For more program information and contacts, see Internet website: [http://aspe.os.dhhs.gov/cfda/p14228.htm].

Department of Commerce

Economic Development Administration (Public Works and Development Facilities Program)

The Economic Development Administration (EDA), Department of Commerce, is authorized to provide development assistance to areas experiencing substantial

---

[10]GAO Water Infrastructure: 11-13.

economic distress. Economic development grants for community water and sewer projects are available through the Public Works and Development Facilities Program.

Under this federally administered program, public works grants are made to eligible applicants to build or expand facilities needed to attract new industry, encourage business expansion, and generate or retain long-term jobs in the private sector. Economic development grants may be used for a wide range of purposes, but frequently have a sewer or water supply element. Types of projects funded include industrial parks, and water and wastewater facilities primarily serving industry and commerce. According to GAO, from FY1991 through FY2000, EDA provided $1.1 billion in grants to local communities for drinking water and wastewater projects.[11] Federal law requires that units of government retain ownership of EDA-funded projects. Because EDA grants must directly encourage employment generation, these grants generally are not available for rural *residential* sewer and water supply development.

Program Purpose. To promote long-term economic development and assist in the construction of public works and development facilities needed to initiate and support the creation or retention of permanent jobs in the private sector in areas experiencing substantial economic distress.

Financing Mechanism. EDA provides grants directly to approved applicants. Grants generally may not exceed 50% of project costs, although severely depressed areas may receive supplementary grants, bringing the total federal share up to 80% of costs. Projects located within designated Economic Development Districts may receive an additional 10% bonus grant for public works projects, and certain Indian tribes may receive 100% grants. On average, EDA grants fund 50% of project costs. Credit may be given toward the non-federal share for in-kind contributions, including contributions of space, equipment, and services. No minimum or maximum project amount is specified in law.

Eligibility Requirements. Public works grants may be made to states, cities, counties, an institution of higher education or a consortium of such institutions, and other political subdivisions, Indian Tribes, the Federated States of Micronesia, the Marshall Islands, Commonwealths and Territories of the United States, and private or public not-for-profit private organizations acting in cooperation with officials of a political subdivision of a state or Indian Tribe.

Qualified projects must fill a pressing need of the area and: (1) be intended to improve the opportunities for the successful establishment of businesses, (2) assist in the creation of additional long-term employment, and (3) benefit long-term unemployed or underemployed persons and low-income families. Projects must also fulfill a pressing need and be consistent with the comprehensive economic development plan for the area, and have an adequate share of local funds. In addition, eligible projects must be located in areas that meet at least one of the following criteria: low per-capita income, unemployment above the national average; or an actual or anticipated abrupt rise in unemployment.

---

[11]GAO Water Infrastructure: 13-14.

Funding. For FY2003, Congress appropriated $203.7 million for EDA's Public Works and Development Facilities Program (P.L. 108-7), $131 million less than in FY2002. The average grant in FY2001 was $1,010,844, and the program supported 283 new public works projects. The President's FY2004 budget requests $232 million for this program.

Statutory and Regulatory Authority. The statutory authority for the Public Works and Development Facilities Program is the Public Works and Economic Development Act of 1965, as amended, P.L. 89-136 (42 U.S.C. 3131, 3132, 3135, 3171), and Title II, P.L. 105-393 (42 U.S.C. 3211). Regulations are located at 13 CFR Chapter III, Part 302, 305, 316, and 317. For more program information, see Internet website: [http://aspe.os.dhhs.gov/cfda/p11300.htm].