




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

JUN 4 2008

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Transfers of Drinking Water State Revolving Fund (DWSRF) Set-Asides to Loan Funds and Conversion of Set-Asides into Reservation on Future Capitalization Grants

FROM: Chuck Job, Chief

Infrastructure Protection Branch

TO: DWSRF Branch Chiefs
Public Water Supply Supervision (PWSS) Branch Chiefs
DWSRF Regional Coordinators

Reducing unspent DWSRF set-aside fund balances remains a high national program priority. Unspent set-aside balances may be reduced either through accelerating set-aside spending or through transferring accumulated set-aside funds to the loan fund, as allowed for in 40 CFR 35.3540(e) (2). Several State programs have requested that, in transferring funds from the set-aside accounts to the loan fund, they are allowed to reserve the authority to set aside an equivalent amount from a future capitalization grant under 40 CFR 35.3540(d).

This memorandum clarifies that the concurrent transfer of unspent set-aside balances and the retroactive reservation of authority to take an equivalent set-aside amount from a future capitalization grant is allowable within the existing DWSRF Interim Final Rule under the sections cited above.

Transferring the money

- The most current capitalization grant agreement and workplans must be amended to reflect this transfer. The Region will determine whether a revised payment schedule is needed. If it has already been through public notice, the IUP (which should address all sources and uses of funds cumulatively available to the State DWSRF program) will require new public notice.
- The State must enter into a binding commitment for transferred set-aside funds within one year of the transfer to the loan fund if funds have already been drawn.

Conversion of Set-Asides into Reservation on Future Capitalization Grants

- The capitalization grant agreement from which the funds were originally set-aside must still be open.

- The capitalization grant agreement from which the funds were originally set-aside, and any associated workplans, must be amended to state the intent of reserving the set-aside funds and the amounts to be reserved.
- The amount to be converted into a reservation on future capitalization grants cannot be more than the amount transferred and cannot be more than the maximum amount allowed under that set-aside.
- Authority to take funds from a future capitalization grant for the Local Assistance and Other State Programs Set-Aside under CFR 35.3535(e) is not provided by the DWSRF Interim Final Rule. There is thus no basis on which a reservation of authority to take funds under this set-aside may be made.

Thank you for your efforts to address unspent set-aside funds and to work to use DWSRF in the most efficient manner. Please feel free to contact either myself or Howard Rubin of my staff at (202) 564-2051 if you have any questions.