

Most States Did Not Provide Some Required Fee Information in the Intended Use Plan or Annual Report for Their Clean Water State Revolving Funds

September 30, 2024 | Report No. 24-N-0069



Report Contributors

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Abbreviations

EPA U.S. Environmental Protection Agency

OIG Office of Inspector General

CWSRF Clean Water State Revolving Fund

Key Definitions

Annual Report A mandated report from the state to the EPA describing how the state has met the goals and objectives for the previous fiscal year as identified in the intended use plan prepared for that year. The annual report includes, among other things, the loan recipients, amounts, and terms. States may also provide similar details for forms of financial assistance other than loans.

Fee An amount charged to recipients of CWSRF funding. In the CWSRF fees guidance, the EPA categorizes fees as either (1) included as principal in loans or (2) not included as principal in loans. This categorization affects the way the fee revenue may be used. However, these categories were not a consideration for this project because the EPA requires the same fee information to be reported for each category, although the requirements are worded slightly differently for each category.

Intended Use Plan A state's plan that is prepared annually prior to the award of the capitalization grant. The plan details the intended uses of funds and the way the funds will be used to achieve the goals of the state revolving fund. Intended use plans are subject to review and public comment prior to being submitted to the EPA.

Cover Image

Water treatment facility. (EPA image)

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OFFICE OF INSPECTOR GENERAL
U.S. ENVIRONMENTAL PROTECTION AGENCY

September 30, 2024

MEMORANDUM

SUBJECT: Most States Did Not Provide Some Required Fee Information in the Intended Use Plan or Annual Report for Their Clean Water State Revolving Funds
Report No. 24-N-0069

FROM: Sean W. O'Donnell, Inspector General 

TO: Bruno Pigott, Acting Assistant Administrator
Office of Water

The U.S. Environmental Protection Agency Office of Inspector General [initiated](#) an audit of the EPA's oversight of the Clean Water State Revolving Fund, or CWSRF, Program. While conducting work on that audit, which is complete, we found that some states omitted required fee information from the intended use plan or the annual report for their CWSRFs and decided to issue this report.¹ We found that 32, or roughly 68 percent, of the 47 states that charged fees to CWSRF loan recipients did not provide some fee information that the EPA requires them to supply in their intended use plans or annual reports.

This report supports an EPA mission-related effort:

- Ensuring clean and safe water.

This report addresses a top EPA [management challenge](#):

- Managing grants, contracts, and data systems.

This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures. The Office of Water is responsible for the CWSRF Program.

In accordance with EPA Manual 2750, your office provided acceptable planned corrective actions and estimated milestone dates in response to OIG recommendations. All recommendations are resolved, and no final response to this report is required. If you submit a response, however, it will be posted on the OIG's website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of section 508 of the

¹ EPA Off. of Inspector Gen., [24-P-0028](#), *The EPA Should Improve Annual Reviews to Protect Infrastructure Investment and Jobs Act Grants to Clean Water State Revolving Funds* (2024).

Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epaoig.gov.

Background

The CWSRF Program is a federal-state partnership that provides low-cost financing to communities for a wide range of water-quality infrastructure projects. Since its inception in 1987, the CWSRF Program has provided more than \$172 billion for projects around the nation. In addition to annual baseline appropriations, Congress provided Infrastructure Investment and Jobs Act supplemental appropriations from fiscal year 2022 through 2026 for the CWSRF Program. For those five fiscal years, the supplemental appropriations together total about \$12.7 billion.

Under the CWSRF Program, the EPA provides grants to all 50 states and Puerto Rico to capitalize state revolving loan funds.² The Clean Water Act specifies that states may use the money in their CWSRFs, up to a limit determined by a formula, to cover the reasonable costs of administering the CWSRF Program. It also specifies that states may charge fees to cover administrative costs.³ Having the option to charge fees is part of the flexibility provided to states in managing their CWSRF Programs.

If states elect to charge fees to loan recipients, the EPA requires the states to provide certain information about the fees. The EPA set forth six reporting requirements in its Guidance on Fees Charged by States to Recipients of Clean Water State Revolving Fund Program Assistance, 70 Fed. Reg. 61,039 (Oct. 20, 2005), and includes parallel reporting requirements in all CWSRF capitalization grants as a standard condition. Specifically, the states must identify in their CWSRF intended use plans the type of fees charged on loans, the fee rate, and the amount of fees available for future use. Additionally, the states must identify in their CWSRF annual reports the fees included in CWSRF loans, the amount of fees collected, and the way the fees were used.

States often hold CWSRF fee revenues in accounts outside of the revolving fund, called fee accounts. These fee accounts can accumulate substantial balances. For instance, in OIG Report No. [24-P-0028](#), *The EPA Should Improve Annual Reviews to Protect Infrastructure Investment and Jobs Act Grants to Clean Water State Revolving Funds*, issued March 14, 2024, we found that the Texas CWSRF fee account balance listed in the annual report had grown to \$106 million by the end of state fiscal year 2022.

² In this report, we use “states” to refer to the 50 states and Puerto Rico, except as indicated.

³ 33 U.S.C. § 1383(d)(7). States may use CWSRF money for the reasonable costs of administering the fund and conducting CWSRF activities, except that such amounts shall not exceed 4 percent of all CWSRF capitalization grant awards, \$400,000 per year, or 1/5 percent per year of the current valuation of the fund, whichever amount is greatest, plus the amount of any fees collected by the state.

The EPA provides oversight for the CWSRFs and is responsible for ensuring that each state program operates in a lawful and effective manner. EPA regional staff perform an annual review of each state's CWSRF.⁴ The EPA Office of Water provides guidance documents and training to EPA regional staff who then conduct the annual reviews. To assist the EPA regions with annual reviews, the Office of Water provides the regions with a checklist of financial and programmatic requirements. Fee programs are one of the checklist areas. The Office of Water also provides the EPA regions with guidance specific to fees in Standard Operating Procedure 2.2, *Evaluating Fee Programs and Use of Fees*, issued May 20, 2011, and the *SRF Annual Review Guidance*, a document that is generally updated each year.

Responsible Office

The EPA Office of Water develops the regulations, policies, and guidance for the CWSRF Program. It also trains the states and the EPA regions on the laws, regulations, policies, and guidance related to the CWSRF. The ten EPA regions conduct annual reviews of their states' CWSRFs using the guidance and checklists developed by the Office of Water. Among other things, the annual review process determines whether states are reporting the required fee information. The regions use that information to determine whether the states are managing fees in a way that protects the long-term health of their CWSRFs.

Scope and Methodology

We conducted the work related to this report from November 2023 to March 2024. We did not follow generally accepted government auditing standards or the Council of Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*. However, we did follow the OIG's quality-control procedures for ensuring that the information in this report is accurate and supported.

To determine whether states that charge CWSRF fees reported all the required fee information, we reviewed relevant federal statutes, regulations, policies, and guidance documents. This review included the October 2022 edition of the Office of Water's *SRF Annual Review Guidance*. We reviewed the 2022 CWSRF intended use plans and annual reports for the 50 states and Puerto Rico.⁵ If a state charged fees, we determined whether its intended use plan and annual report contained the required information regarding fees.

Results

Most of the 47 states that charged fees to CWSRF loan recipients did not provide some required fee information in either their intended use plan or annual report for 2022. This may have occurred because

⁴ EPA OIG Report No. [24-P-0028](#) contains a detailed description of the EPA's CWSRF annual review process.

⁵ The audit of the EPA's oversight of the CWSRF Program (Report No. [24-P-0028](#)) examined a limited number of intended use plans and annual reports from 2019 through 2021. For this report, we obtained the 2022 intended use plans and annual reports from all 50 states and Puerto Rico to provide a better overview of the issue. The use of "2022" refers to most states' fiscal year covering federal fiscal year 2021 capitalization grants.

the Office of Water’s guidance was not clear with respect to the definitions of the required information and how regional reviewers should obtain missing information. As a result, the EPA may not have had complete fee information available for its oversight activities. Additionally, the public may not have had access to all the required fee information, including the amount of accumulated fee revenue available for use.

Not All States Included Required Fee Information In Both Their Intended Use Plan and Annual Report

We determined that 47 of the 51 state CWSRF Programs charge fees to assistance recipients. We found that 15 state programs, or 32 percent, included all six fee reporting requirements in both their intended use plan and annual report for 2022. Table 1 reflects an overview of the reporting elements we found during our review.

Table 1: Number and percentage of states that included CWSRF fee reporting requirements

State CWSRF Programs that included:	Number	%*
All 6 requirements	15	32
5 of the 6 requirements	18	38
4 of the 6 requirements	6	13
3 of the 6 requirements	4	9
2 of the 6 requirements	4	9
Total	47	100

Source: OIG analysis of the intended use plans and annual reports for 2022. (EPA OIG table)

* Since 47 states charged fees, the denominator we used to calculate the percentages was 47. All percentages have been rounded.

Table 2 contains the details of what we found in our analysis of intended use plans and annual reports. Notably, 25, or roughly 53 percent, of the 47 states omitted the total amount of fees available for use from their intended use plan. However, some states did include an estimate of the fees they expected to collect during the year in question. This was not necessarily the amount of fees available for use, if the state had carried a fee account balance, but it was information relating to fee income. In its response to our draft report, the Office of Water stated that it had considered the reporting of fees expected to be collected during the year to be sufficient to meet the reporting requirements in its guidance. We, however, did not count the reporting of expected fee revenue as meeting the requirement for reporting the amount of fees available for future use. If we had done so, 24 of the 47 state programs, or 51 percent, would have been categorized as reporting all six required pieces of fee information for 2022.

Additionally, 14, or approximately 30 percent, of the 47 states omitted information on how fee revenues were used from their annual reports. Some states included statements in their annual reports about the intended use of their fee income. When coupled with information on the year’s expenses in the same annual report, the intended use appeared to reflect the actual uses of the fee income.

Table 2: Number and percentage of states that omitted a CWSRF fee reporting requirement

CWSRF fee reporting requirement	States omitting the requirement (number)	States omitting the requirement (%)*
Intended use plan: types of fees charged on loans	0	0
Intended use plan: fee rate	4	9
Intended use plan: amount of fees available for use	25	53
Annual report: types of fees charged on loans	5	11
Annual report: amount of fees collected	10	21
Annual report: how those amounts were used	14	30

Source: OIG analysis of the intended use plans and annual reports for 2022. (EPA OIG table)

* Since 47 states charged fees, the denominator we used to calculate the percentages was 47. All percentages have been rounded.

EPA Guidance Did Not Ensure that the Fee Information Was Reported as Required

The Office of Water’s Standard Operating Procedure 2.2, *Evaluating Fee Programs and Use of Fees*, and its 2022 *SRF Annual Review Guidance* directed EPA regional staff to confirm that the required fee reporting information was included in both the state’s intended use plan and annual report. However, if the information was not included, the 2022 *SRF Annual Review Guidance* advised regions to follow up with state revolving fund managers during the on-site interviews that are a part of the annual review process. This does not appear to support the reporting requirements by allowing the regions to accept fee information discussed during the on-site review with the state, instead of requiring the information to be included in the state’s intended use plan and annual report.

Complete Fee Information Is Important for EPA Oversight and Public Awareness

The EPA’s 2022 *SRF Annual Review Guidance* identifies poor accounting of fee revenues and excessive fee account balances as two risk areas. It also identifies the risk that fee rates, when combined with interest rates, could result in overall CWSRF lending rates that are not competitive with loans offered by other lenders.

Most states reported fee rates. Knowing the fee rates may:

- Inform discussions about the appropriateness of fees and interest rates in terms of the attractiveness of loans and return of money to the revolving fund. There is often a direct trade-off between the interest rate and the fee rate.
- Provide potential loan recipients with information useful for decision-making. There is a limit that states can charge borrowers before they turn elsewhere for financing.

However, states that charged fees did not always report in their intended use plan the amount of fees available for use. It is possible that, during on-site interviews, EPA regional reviewers obtained information on the fee account balances versus the anticipated annual fees, in which case the EPA’s oversight did not suffer from the lack of that information. We do not address that possibility in this report. However, one effect of the omission of fee account balances from intended use plans is that the missing fee account balance information was not available during public comment on the intended use

plan. If not available, the public may not have known how much accumulated fee revenue was potentially available for water-quality activities that could have benefitted communities.⁶ Additionally, states that charged fees did not always state clearly in their annual report how fee revenues were used in the previous year. We observed that many states post their annual reports on their websites, so if the use information had been included, the public could have been better informed.

Conclusions

Robust state support from the EPA and adherence to statutory, regulatory, and EPA policy requirements are critical for ensuring the success of the programmatic intent of the unprecedented funding increases to the CWSRF Program. Requiring states to report information regarding the fees that they collect helps to ensure that those funds are collected and used appropriately. Knowing the fee account balance can also help drive the EPA regions' discussions with the states about spending those fees during the year to benefit water quality. Such discussions could help states to assess their need for fees and to ensure that fees collected are commensurate with their uses. The public also has an interest in how CWSRF fees are used and how much fee revenue may have accumulated.

Recommendation

We recommend that the assistant administrator for Water:

1. Ensure that states report fee information in their intended use plans and annual reports as required per the Guidance on Fees Charged by States to Recipients of Clean Water State Revolving Fund Program Assistance, 70 Fed. Reg. 61,039 (Oct. 20, 2005), and the Clean Water State Revolving Fund capitalization grant terms and conditions.

Agency Response and OIG Assessment

The Office of Water responded to our draft report on September 6, 2024. The Agency also provided technical comments, which we reviewed and used to make appropriate changes for the final report. The Agency's written response to the draft report is attached.

The Office of Water concurred with our recommendation and provided acceptable corrective actions with estimated completion dates. The status of the recommendation is attached. We appreciate the Office of Water's plan to further clarify what fee information must be reported in intended use plans and annual reports. Clarified definitions and instructions will help ensure that states report the information that the Office of Water requires. We further appreciate that the Office of Water stated that, "there is value in also reporting the fee account balance as part of the intended use plan."

⁶ For fiscal year 2022, 22 states reported fee account balances in their intended use plans. We observed intended use plan balances ranging from roughly \$568,451 to \$51,500,000. The Texas CWSRF did not list its fee account balance in its intended use plan, so it is not included in the range of intended use plan balances. A fee account balance table is attached.

cc: Michael S. Regan, Administrator
Janet McCabe, Deputy Administrator
Dan Utech, Chief of Staff, Office of the Administrator
Wesley J. Carpenter, Deputy Chief of Staff for Management, Office of the Administrator
Faisal Amin, Agency Follow-Up Official (the CFO)
Andrew LeBlanc, Agency Follow-Up Coordinator
Susan Perkins, Agency Follow-Up Coordinator
Jose Kercado DeLeon, Agency Follow-Up Coordinator
Jeffrey Prieto, General Counsel
Tim Del Monico, Associate Administrator for Congressional and Intergovernmental Relations
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Andrew Sawyers, Director, Office of Wastewater Management, Office of Water
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Michael Deane, Office of Wastewater Management, Office of Water
Michael Benton, Audit Follow-Up Coordinator, Office of the Administrator
Carla Hagerman, Audit Follow-Up Coordinator, Office of Water

Status of Recommendations

Rec. No.	Page No.	Recommendation	Status*	Action Official	Planned Completion Date
1	6	Ensure that states report fee information in their intended use plans and annual reports as required per the Guidance on Fees Charged by States to Recipients of Clean Water State Revolving Fund Program Assistance, 70 Fed. Reg. 61,039 (Oct. 20, 2005), and the Clean Water State Revolving Fund capitalization grant conditions.	R	Assistant Administrator for Water	9/30/25

* C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

Fee Account Balances

State	Balance	As of
Alaska	\$6,229,558	3/30/21
California	\$48,765,584	7/1/21
Colorado	\$3,055,824	6/30/21
Delaware	\$7,112,189	6/30/21
Florida	\$22,000,000	7/1/21
Idaho	\$3,338,110	6/30/20
Illinois	\$30,138,396	7/1/21
Indiana	\$17,352,797	7/1/21
Iowa	\$14,290,000	6/30/22
Kansas	\$7,871,089	6/30/22
Louisiana	\$4,887,248	7/1/21
Massachusetts	\$51,500,000	6/30/21
Missouri	\$32,890,434	12/31/20
Nebraska	\$911,264	3/1/21
Nevada	\$568,451	7/1/21
New Mexico	\$4,619,013	7/1/21
North Dakota	\$11,700,000	12/31/21
Oklahoma	\$4,056,815	7/1/21
Oregon	\$1,760,000	6/30/21
South Dakota	\$1,513,991	9/30/21
Washington	\$6,383,000	7/1/21
West Virginia	\$14,925,043	3/31/21

Source: OIG compiled these fee account balances from the intended use plans of the 22 states that provided information on fees available for use. We did not verify the accuracy of the balances. (EPA OIG table)

Agency Response to Draft Report



OFFICE OF WATER
WASHINGTON, D.C. 20460

September 6, 2024

MEMORANDUM

SUBJECT: Response to Draft Report: *Most States Omitted Some Required Fee Information from the Intended Use Plan or Annual Report for Their Clean Water State Revolving Funds*, OA-FY23-0047, August 5, 2024

FROM: Bruno Pigott, Acting Assistant Administrator

TO: Sean O'Donnell
Inspector General

For: Best-Wong, Benita

Digitally signed by Best-Wong, Benita
Date: 2024.09.06
09:51:37 -04'00'

Thank you for the opportunity to provide comments on the Office of Inspector General's draft report: *Most States Omitted Some Required Fee Information from the Intended Use Plan or Annual Report for Their Clean Water State Revolving Funds*, OA-FY23-0047, August 5, 2024. The U.S. Environmental Protection Agency's Office of Water would like to offer the following comments on the draft report.

Title Page: 70% Omitted Fee Information

The Office of Water has concerns that this highlight does not properly reflect the context of the OIG's findings since it treats all states equally in terms of omitted information. We recommend that any high-level highlight be crafted in such a way that it considers the extent by which states omitted information. As noted in the draft report, 14 states included all required information in the Intended Use Plans and Annual Reports. However, the OIG's supporting information shows that 25 states were only missing between one and two of the required reporting elements. The remaining eight states were missing between three and four of the required reporting elements. As currently crafted, the highlight gives the impression that the states were only reporting 30 percent of the requested information while the overall percentage of the information provided by all the states is much higher. We suggest replacing the highlight with **15% Omitted Fee Information**, which would more fully reflect the findings of the report and also incorporate our comments on Table 1 and Table 2. We respectfully also request that the OIG consider updating the title of the report to better reflect the findings of the

report: *Some States Omitted Required Fee Information from the Intended Use Plan or Annual Report for Their Clean Water State Revolving Funds.*

Results: Most States Omitted Some Required Fee Information from Their Intended Use Plan or Annual Report

The Office of Water appreciates the information provided by the OIG regarding the findings presented in Table 1 and Table 2 of the Results section. Based on the review of the supporting material, there are several places where we respectfully disagree with the OIG's determination that the required information was omitted by the states. A separate table summarizing these comments has been attached as part of this response. Based on our review, 27 states have provided all the required information in the Intended Use Plans and Annual Reports. With respect to the comments, there is one important area we wanted to emphasize. While we consider states that report fee revenue for the upcoming year in the Intended Use Plan as being sufficient for meeting the reporting requirements laid out in our guidance, we agree that there is value in also reporting the fee account balance as part of the Intended Use Plan. This will be discussed with the states and factored in as part of our planned updates of the Annual Review guidance. We respectfully request that the OIG consider updating the section title to: Results: Some States Omitted Required Fee Information from the Intended Use Plan or Annual Report.

Results: EPA Guidance Did Not Ensure that the Fee Information Was Reported as Required

The Office of Water's Standard Operating Procedure 2.2, Evaluating Fee Programs and Use of Fees, and its 2022 SRF Annual Review Guidance directed EPA regional staff to confirm that the required fee reporting information was included in both the state's intended use plan and annual report. However, if the information was not included, the 2022 SRF Annual Review Guidance advised regions to follow up with state revolving fund managers during the on-site interviews that are a part of the annual review process. This advice appears to contradict the reporting requirements by allowing the regions to accept fee information discussed during the on-site review with the state, instead of requiring the information to be included in the state's intended use plan and annual report.

The Office of Water respectfully disagrees with the characterization that we provided the states conflicting instructions. The purpose of the referenced language of the Annual Review guidance was to provide direction on what to do if the required information was not provided in the Intended Use Plan and/or Annual Report. This was to ensure that the regions still gathered the information needed to determine whether this was just a documentation issue or whether there were other issues regarding Clean Water State Revolving Fund fees that warranted further discussion. The annual review guidance still stresses the importance that this information be included in the Intended Use Plans and Annual Reports, and expects the regions to work with the states to address any reporting deficiencies in this area.

AGENCY RESPONSE TO RECOMMENDATION

The draft report makes the following recommendation to the Assistant Administrator for Water:

Ensure that states report fee information in their intended use plans and annual reports as required per the Guidance on Fees Charged by States to Recipients of Clean Water State Revolving Fund Program Assistance, 70 Fed. Reg. 61,039 (Oct. 20, 2005), and the Clean Water State Revolving Fund capitalization grant terms and conditions.

Response to OIG Recommendation 1 – Concur

Proposed Corrective Actions:

1.1 The Office of Water will review and update the Annual Review guidance to further clarify what must be reported in the Intended Use Plans and Annual Reports with respect to Clean Water State Revolving Fund fees. **Expected Completion Date: October 31, 2024.**

1.2 The Office of Water will include additional material in its annual oversight and state trainings focusing on what must be included in the Intended Use Plans and Annual Reports with respect to Clean Water State Revolving Fund fees. **Expected Completion Date: September 30, 2025.**

Again, we greatly appreciate this opportunity to provide comments on the draft report. If you have any questions or would like to discuss our feedback in greater detail, please contact me or your staff may contact the Office of Water’s Audit Follow-Up Coordinator, Carla Hagerman, at Hagerman.Carla@epa.gov.

ATTACHMENT

1. EPA Comments on Table 1 and Table 2

cc: Katherine Trimble, OIG
Marcus Gullett, OIG
Kevin King, OIG
Brenda Carey-DiGregorio, OIG
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Faisal Amin, OFCO
Sue Perkins, OCFO
Andrew LeBlanc, OCFO
Jose Kercado DeLeon, OCFO



Whistleblower Protection

U.S. Environmental Protection Agency

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