



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF WATER

May 11, 2023

MEMORANDUM

SUBJECT: 2023 State Capacity Development Program Reports to the Governor

FROM: Marietta Echeverria, Director
Drinking Water Capacity and Compliance Assistance Division

TO: Drinking Water Program Managers
Regions I-X

State capacity development programs are integral to building strong water systems and strong communities. As EPA and the states continue to implement the historic investment from the Bipartisan Infrastructure Law, it is critical that our activities include the state capacity development programs to ensure that water systems will have not only technical, but also financial and managerial capacity to sustain access to safe drinking water for Americans. This will involve a regular channel of communication between EPA Regional offices and state programs.

On January 6, 2023, Jennifer McLain and Andrew Sawyers wrote to the EPA Regional offices to encourage actions to improve implementation and oversight of the BIL State Revolving Loan Funds, and to emphasize the importance of consistently and robustly engaging states.

In that same spirit, I am writing to remind you of the upcoming submission requirement for the State Capacity Development Program Report to the Governor, and the need for these reports to address certain asset management-related elements required under the America's Water Infrastructure Act (AWIA). These triennial reports are required, by statute, to be submitted by States to their Governor's office and shall be available to the public no later than September 30, 2023. Please share this reminder with your States, so that they have adequate time to prepare and submit the report in addition to making the report available to the public. Failure to submit the report by the required date will result in a 20 percent withholding of a State's Drinking Water State Revolving Fund (DWSRF) allotment.

Please work with your States to ensure not only that they meet the September 30, 2023 deadline, but also that the reports address the two issues mandated under section 1420(c)(3) of the Safe Drinking Water Act: (1) efficacy of the Capacity Development strategy and (2) progress made towards improving technical, managerial, and financial capacity of public water systems, including efforts of the State to encourage development by public water systems of asset management plans and to assist public water systems in training relevant and appropriate persons in implementing such asset management plans (AWIA Section 2012).

The attached document provides suggested reporting content to guide the States as they begin to develop their Capacity Development Program Reports to the Governor. After your States have notified you that they have submitted their reports, please notify the DWSRF Project Officers that the requirements have been met. We request that each State forward to you a courtesy copy of the report, along with an explanation of how the report was made available to the public.

I appreciate your continued efforts in working with your States to promote the importance of safe drinking water through the implementation of the Capacity Development Program. Please feel free to contact me with any questions, or you may contact the Capacity Development Coordinator, Alison Flenniken, at (202) 564-4412 (Flenniken.Alison@epa.gov).

Attachment

cc: Water Division Directors, Regions I-X
Capacity Development Coordinators, Regions I-X
DWSRF Coordinators, Regions I-X
Damaris Christensen, Supervisor, Water Finance Branch, OGWDW
Rose Kyprianou, Supervisor, Capacity Development Branch, OGWDW

Suggested Reporting Content for Development of State Capacity Development Program Report to the Governor

This attachment contains EPA's suggestions to States on questions to consider as they develop their State Capacity Development Reports to the Governor. States should focus on how improving technical, managerial, and financial capacity for public water systems promotes public health protection through safe drinking water, and what actions the State is taking to make these improvements. We encourage States to consider addressing the following questions in their reports:

1. *What is your assessment of the efficacy of your strategy?*

Describe the major objectives in your strategy, any accomplishments associated with those objectives, progress you continue to make in implementing your strategy effectively, including coordination between State agencies, and changes you have made or plan to make as a result of your experience.

We recommend you showcase "success stories" during the past 3 years of strategy implementation. Consider the approaches you found to be successful in helping systems improve their technical, managerial, and financial capacity; as well as sharing experience with approaches that you did not find effective. Reports structured in this way can be shared with other States to collaborate and implement new strategies. You may also discuss how enforcement and capacity development efforts in assisting systems with a history of significant noncompliance has played a role in helping systems achieve capacity and compliance.

2. *From a Statewide perspective, what progress are you making (through your strategy) in improving the technical, managerial, and financial capacity of public water systems?*

Discuss the baseline against which you plan to measure progress and any early indications of progress, against that baseline. You may also discuss the role that partnerships among systems and with stakeholders are playing in assisting systems as they obtain and sustain capacity.

Consider discussing problems that you and your systems face most frequently, such as insufficient funds to cover infrastructure improvements or difficulty in dealing with certain categories of small systems. Additionally, you could identify new challenges, such as new or pending regulatory requirements or experiencing a decrease in workforce.

3. *How do you prioritize your actions to support the communities that need the most assistance?*

How are you identifying and assisting systems and communities that have infrastructure and capacity needs, and how are you working to build their capacity? How does the technical assistance in your capacity development program support this effort? How do you assess the success of technical assistance?

**Suggested Reporting Content for Development of
State Capacity Development Program Report to the Governor (cont.)**

4. *What assistance is available in your state for public water systems to develop or implement asset management plans?*

The 2018 America's Infrastructure Act (AWIA), Section 2012, requires States to include efforts of the State encouraging the development and implementation of asset management plans by public water systems in the triennial Governor's report no later than September 30, 2023.

Consider your state's asset management approach within the capacity development strategy. We recommend you include all the activities that your State implements to promote asset management, such as enforcement orders or training programs, and summarize how implementing these activities enhances your capacity development program. Discuss the barriers to implementation and future opportunities to expand your program to promote asset management.

5. *What additional efforts in your investment in capacity development have not been mentioned above, but wish to include in this report?*

We encourage you to discuss the continued resource investment in following areas: extent and success of system consolidation and restructuring; training efforts, especially those associated with operator certification; source water assessment protection efforts undertaken by the State or at the local level; other collaborative projects.

Financial assistance from the DWSRF and other Federal/State loan or grant programs should also be considered for this report. You may include how the state is using the set-asides to provide training and technical assistance to systems that lack capacity; conditions for loan agreement and forgiveness programs that relate to capacity development (e.g., requiring asset management plans, board member training, etc.); as well as best practices for improving equity of access to financial assistance by water systems.

6. *How will you make this report available to the public?*

States are required to submit to the Governor a report that shall also be made available to the public on the efficacy of the strategy and progress made toward improving technical, managerial, and financial capacity of public water systems in the State.

Please include a description of how you will make this report publicly available. You may wish to consider the following options: posting the report on your website and websites of your stakeholders; asking systems to advertise the report in the Consumer Confidence Report or in the customer's water bill; publishing the report in various newsletters or *State Registers*; or making the report available for viewing in the State's office.