



1130 Connecticut Ave. NW, Suite 1050
Washington, DC 20036

T (202) 833-2672
F (888) 267-9505

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JooYeun Chang
Acting Assistant Secretary
Administration for Children & Families
U.S. Department of Health & Human Services
330 C Street, SW
Washington, DC 20201

Dear Ms. Chang,

I am writing on behalf of the National Association of Clean Water Agencies (NACWA) regarding the Fiscal Year (FY) 2021 Low-Income Household Water Assistance Program that is being administered by the Department of Health and Human Services (HHS). NACWA is a national trade association representing over 330 publicly owned wastewater and stormwater utilities around the nation. These utilities collectively serve the majority of Americans utilizing sewer services. NACWA's utility members were designated by Congress to receive the funds authorized by the new low-income water assistance program on behalf of eligible households. NACWA also developed the idea for the program and strongly advocated for the creation and funding of it.

NACWA appreciates the opportunities we have had to speak with Office of Community Services (OCS) staff about how the new program will be structured. Given the significant need for these low-income water funds in communities around the country – a need that existed before COVID-19 but has been further exacerbated by it – NACWA shares HHS's desire to get the funds distributed as quickly and effectively as possible. We also want to ensure the program is appropriately structured so that funds are efficiently targeted to the low-income households most in need of assistance and can be administered as expeditiously as possible by clean water utilities. Getting the program structured correctly is equally as important as getting the funds out quickly.

NACWA would like to offer the following recommendations to HHS as the Department works diligently to form and implement the low-income water program. We believe these recommendations will help ensure the program is as effective as possible in getting the money to where it is most needed, and we would welcome the opportunity to discuss these issues further with HHS staff and leadership.

Consult Closely with EPA in Program Development

Given the significant experience the U.S. Environmental Protection Agency (EPA) has working with the types of water utilities that will be receiving and implementing the funding on behalf of their eligible customers, as well as the Agency's significant expertise in financial and financing

issues for water utilities, NACWA believes it is critical that EPA be closely consulted during all phases of the development of the low-income water assistance program.

As part of this collaboration, HHS should engage with EPA's Water Infrastructure and Resiliency Finance Center. Experts with the Center help administer the existing programs that provide the bulk of the federal government's investment in water, namely the State Revolving Funds (SRFs) and the Water Infrastructure Finance and Innovation Act (WIFIA) program. Finance Center staff not only understand the operational challenges that water utilities face but also the unique financial concerns that water utilities have, especially as it relates to low-income customers that are struggling to pay ever rising water bills. While HHS has significant experience addressing the energy needs for these customers, the challenges presented by water can be substantially different and unique. It is critical that HHS seek EPA's expertise in this area and ensure that EPA is closely consulted during program development.

HHS Should Provide the Opportunity for Stakeholder Review and Input

NACWA requests that key stakeholders be given an opportunity to review and provide input before HHS finalizes the formula it intends to use in allocating the \$638 million appropriation to states/grantees and any guidance documents for states/grantees on how to then distribute the funds to utilities.

Given the need to move expeditiously to get the funds disbursed, this opportunity for review and input can be done informally and on a very short timeline. But it is critical that key stakeholders from the water utility sector, environmental organizations, community assistance advocates, and other relevant federal agencies be given a chance for input before any final decisions are made. This is especially true in light of the short timeline HHS is operating under despite having very limited experience working with water utilities or knowledge of the water sector.

A meaningful stakeholder input process will ensure appropriate transparency and collaboration, which will in turn help make the program as effective as possible for the households relying on it. A review and input process will also allow federal agencies with interest in the program, including EPA, the Department of Agriculture (Rural Development) and the Department of Interior, to provide their expertise.

Include Factors in the Grantee Allocation Formula that Consider Water Need

NACWA understands that Congress, in its enabling legislation, only outlined two factors that HHS must consider in creating its state/grantee allocation formula – percentage of households with income equal to or less than 150% of the federal poverty limit and percentage of those households that spend more than 30% of income on housing. However, nothing in the legislation prevents HHS from considering additional factors for the formula that could help direct funds to those most in need of water assistance.

NACWA is concerned that, depending on how the two statutory factors are weighted, the resulting distribution formula could disproportionately direct funds to states with high poverty levels but larger rural populations whose low-income customers are not on centralized water and sewer services and, therefore, do not have water arrears on bills and, as such, would not even be eligible for the program. To address this possibility, NACWA recommends that HHS include an additional factor in the allocation formula that looks at actual water assistance need so that the funds can be best targeted to where the need is strongest in line with Congressional intent. EPA, and especially members of EPA's Water Finance Center, would be best positioned to help HHS determine what additional factors would provide a helpful "water overlay" in the allocation formula to most effectively target the funds and ensure the ultimate success of the new program.

Recommendations for Guidance to States/Grantees

As HHS prepares guidance for grantees of the federal low-income funds, including states, territories and tribes, NACWA asks that the Department address the following key considerations in any final guidance document.

- Ensure that water sector utility eligibility for the funds is as broad as possible. All publicly owned wastewater and stormwater utilities should be eligible, including those that are part of a city or county government, those that are special or regional districts or authorities, and those that provide wholesale services only. Additionally, all drinking water, wastewater and/or stormwater charges should be eligible.
- Prioritize funding to those utilities that can demonstrate a clear need for low-income customer water assistance. The actual number of low-income customers in need, and the total arrearages of those customers, will vary significantly from utility to utility, and priority should be given to those utilities with the largest number of customers needing assistance. Utilities could demonstrate this need through a variety of relatively simple methods, including through use of data on current arrearages, data from existing customer assistance programs or by calculating overall community low-income needs and challenges through some of the metrics outlined in EPA's recently proposed 2021 *Financial Capability Assessment Guidance*.
- Consider suggesting that states set up a two-tiered distribution system for the low-income water funds. Since most states have hundreds or thousands of water utilities, all with differing levels of financial expertise and ability to effectively apply the funds, separating utilities by size could help ease program implementation. The larger utilities, such as those above 50,000 or 75,000 in service area population, will likely have a greater ability to know which of their customers will need assistance and leverage existing systems to credit customer accounts, have more experience in community outreach and getting information out through various community networks, and need less direction and guidance from the state. Many larger water utilities already have existing Customer Assistance Programs in place which can be leveraged to deliver funds to customer accounts expeditiously. HHS should therefore consider advising

states to create one tier for these utilities that will need less help from the state to get the funds appropriately distributed, and a second tier for smaller sized utilities that may need significantly more assistance from the state and other implementation partners to effectively and expeditiously utilize the funds.

- In line with Congress' directive to use existing policies, systems, and approval processes in place to the extent practicable, HHS should direct states and utilities to align assistance eligibility criteria with eligibility criteria already in place in local water utility Customer Assistance Programs, where available, and to provide categorical eligibility to households that qualify for other federal aid programs including the Low-Income Home Energy Assistance Program.
- HHS should expressly allow utilities receiving the funds to engage where appropriate with local community action agencies, as well as other community organizations and nonprofits, for the purposes of community outreach, assisting with customer applications, determining customer eligibility, and other aspects of program administration at the local level. While some water sector utilities have already established these relationships for existing water customer assistance programs, many do not yet have these critical partnerships in place. Specifically allowing and encouraging these relationships will further help ensure funds are targeted where most needed, taking into account local networks, circumstances, and administrative capacities.
- HHS should also encourage states to consider allowing utilities to let applicants for funding self-certify need and eligibility, including both homeowners and renters, if applicants don't automatically qualify through other means. Many utilities with existing customer assistance programs report that the administrative burden of validating eligibility has hindered reaching eligible customers and distributing assistance to those in need. This is particularly true in trying to demonstrate and certify hardship specific to COVID-19, as many struggling families do not have documentation that can affirmatively attribute their unemployment to the pandemic.
- HHS should instruct states/grantees to allow households to aggregate their need – up to 12 months total for a household. The pandemic has caused financial hardships to be longer and wider than the more temporary assistance typically needed by struggling households. Therefore, the duration of assistance should match the realities of this pandemic and help prevent the accumulation of charges that could result in a significant burden for a household. With the pandemic now entering its twelfth month, and with emergency moratoria on fees and shutoff for nonpayment in place in numerous states and in local communities around the country, the water utility sector is very concerned about the accretion of water debt by individual households. Many households will struggle to regain financial footing well after the pandemic ends and – absent meaningful aid – these households may have untenable levels of past-due water bills. At the same time, individual water utilities cannot simply write off these uncollected rates. Clean water service providers are overwhelmingly public sector entities that rely on customer

rates to fund the vast majority - over 90% - of their ongoing operations, maintenance, capital improvement and infrastructure replacement – services which are vital for protecting public health.

- HHS should advise states to consult with their state water finance authorities about other considerations in how to best distribute the funds. Every state has a state entity that is charged with administering the federal Drinking Water and Clean Water State Revolving Funds, and these state entities have significant expertise with water sector utilities and their financial situations. They can be of great value in helping ensure these low-income funds are targeted to those in greatest need.

NACWA appreciates the opportunity to provide these thoughts and recommendations to HHS and OCS, and respectfully requests the opportunity to discuss them further with the appropriate staff. NACWA shares HHS's objective to ensure the low-income water assistance program is structured in the best manner possible to assist low-income households and the water utilities that serve them. Please contact Nathan Gardner-Andrews, NACWA's General Counsel & Chief Advocacy Officer, at ngardner-andrews@nacwa.org or 202-833-3692 with any questions or to discuss further.

Sincerely,



Adam Krantz
CEO

CC: Dr. Lanikque Howard, OCS
Jolleen George, OCS
Lauren Christopher, OCS
Seth Hassett, OCS