PENNVEST

PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY

Pennsylvania
Department of
Environmental Protection

Clean Water and Drinking Water State Revolving Fund Programs:

Federal Fiscal Year 2025 Intended Use Plans

Comment and Response Document

INTRODUCTION

On June 7, 2025, the Pennsylvania Infrastructure Investment Authority (PENNVEST) and the Pennsylvania Department of Environmental Protection (DEP) published notice in the *Pennsylvania Bulletin* [55 Pa.B. 3987] of the availability for public comment on the Clean Water and Drinking Water State Revolving Fund Programs Intended Use Plans (IUPs) for Federal Fiscal Year (FFY)2025. A 30-day comment period was provided on the FFY 2025 CWSRF and DWSRF IUPs, and interested parties were directed to submit comments to DEP's eComment system or by e-mail to ecomment@pa.gov. The comment period ended on July 7, 2025.

DEP and PENNVEST received comments and questions from different individuals and organizations during the comment period. The purpose of this document is to present DEP's and PENNVEST's responses to these comments and to explain how the comments were considered in finalizing the CWSRF and DWSRF IUPs.

The names and, where available, addresses of individuals who submitted comments are identified in Attachment A, in no particular order. This document presents each comment received and identifies the commenter(s) by number in parentheses, corresponding to the list in Attachment A. Copies of all comments received during the public comment period are posted on the Department's eComment website at https://www.ahs.dep.pa.gov/eComment/.

COMMENTS AND RESPONSES

<u>Comments received on CWSRF and DWSRF IUPs</u>

1. **Comment:** "The SRF is one of the most important tools we have to protect public health, advance environmental justice, and invest in the long-term resilience of our water infrastructure." The commenter urges the Commonwealth to "prioritize full and continued funding of the SRF programs; equitable distribution that centers disadvantaged communities and environmental justice areas; and transparency and accessibility in how decisions are made and projects are selected." One commenter further conveys, "But the SRF only works when the process is transparent, equitable, and intentionally inclusive of the communities that have been historically underserved or excluded from funding access," and, as such, also urges the Commonwealth to act on the following points: "Prioritize grants over loans for low-capacity and overburdened communities. Adding debt to municipalities already struggling to maintain basic operations only widens the gap. Ensure Environmental Justice communities are centered, not sidelined. That means using updated mapping tools, not just outdated poverty metrics, and ensuring outreach is conducted before decisions are made. Provide clear scoring criteria and public visibility into how project decisions are made. The public deserves to know how millions in public funding are prioritized and whether equity plays any real role in those choices." **(2,3)**

   Response: PENNVEST continues to advocate for full SRF program funding through its membership and participation in the Council of Infrastructure Financing Authorities.

   All grant and principal forgiveness funding is prioritized to projects utilizing an affordability analysis which takes into consideration, among other things, economic factors as required by the Safe Drinking Water Act and the Clean Water Act to identify hardship consideration for such dollars. This is a requirement of the capitalization grants provided by the Environmental Protection Agency. Unfortunately, there are never enough grants and principal forgiveness loan dollars available. Demand for grant and principal forgiveness loan dollars traditionally exceed the available dollars so PENNVEST prorates what is available and makes up the difference with low interest loan dollars and lets the applicant decide whether to accept or reject any funding offer.

2. **Comment:** The commenter states, "Clean, affordable, and resilient water systems are not optional for some and guaranteed for others" and is urging the Commonwealth to act on the following points: "Create accessible pathways to funding. Technical assistance must be funded and embedded in the process. Small communities shouldn't need an engineering firm on retainer just to apply; and require community engagement as a condition of SRF funding not just encourage it. Communities should have a voice in the projects that shape their futures, especially when the risks of inaction are so high." **(2)**

   Response: Projects are 100% local decision making. PENNVEST is merely an institution that provides financing in support of local clean water projects. PENNVEST has been implementing a pilot program that provides technical assistance to small and disadvantaged communities as well as provides assistance through area project specialists to assist with application. Additionally, funding is provided to DEP to support their Professional Engineering Services program, which provides similar technical assistance as previously described above for drinking water projects.

<u>Comments received on CWSRF IUP</u>

3. **Comment:** Commenter recommends that PENNVEST "update the IUP to allow additional subsidy for municipalities that do not meet affordability criteria as expressly authorized by the Clean Water Act," which allows PENNVEST to "provide 'additional subsidy' in the form of principal forgiveness and grants, among other options" as well as to "provide additional subsidization to applicants that do not meet the affordability criteria when that subsidy would directly benefit lower income residents. Section 1383(i)(1)(A)(ii) of the Clean Water Act provides that additional subsidization can be granted: to benefit a municipality **that… does not meet the affordability criteria** of the State if the recipient … seeks additional subsidization to benefit individual ratepayers in the residential user rate class; demonstrates to the State that such ratepayers will experience a significant hardship from the increase in rates necessary to finance the project or activity for which assistance is sought; and ensures, as part of an assistance agreement between the State and the recipient, that the additional subsidization provided under this paragraph is directed through a user charge rate system (or other appropriate method) to such ratepayers. (Emphasis added)." The commenter also states this alternative pathway would support PENNVEST's mission as well as "support PENNVEST's goals to expand outreach to underserved areas." Furthermore, the commenter illustrates that "many underserved areas in Pennsylvania have not been able to benefit from additional subsidization even as their water rates are rapidly rising" and refers to recent census data indicating "more than 400,000 Philadelphians and nearly 300,000 Pittsburghers have incomes below the state median. The rate increases required to cover the debt service for CWSRF loans are likely to be unaffordable for these residential ratepayers. The affordability criteria do not account for these ratepayers, leaving a gap in the IUP that the Clean Water Act expressly empowers PENNVEST to close… Because PENNVEST already considers project impacts on a per household or service area basis, also considering information related to the households' ability to pay for the project would be in line with PENNVEST's current policies." Accordingly, the commenter recommends the IUP be updated to reflect the following section on page 15: "Supplemental Criteria for Additional Subsidy: Applicants that do not meet the affordability criteria set out above may be eligible for principal forgiveness or other additional subsidization so long as the following conditions are met: The applicant seeks additional subsidy to benefit individual ratepayers in the residential user rate class; The applicant demonstrates that these individual ratepayers will experience a significant hardship from the increase in rates necessary to finance the project or activity for which assistance is sought; and The

applicant ensures as part of an assistance agreement with PENNVEST, that the additional subsidization provided is directed through a user charge rate system (or other appropriate method) to such residential ratepayers. This change to the IUP would close a critical gap in the allocation of additional subsidy and prevent vulnerable residential ratepayers from experiencing significant financial hardship." **(1)**

Response: PENNVEST's affordability analysis does exactly as authorized by the Clean Water Act and is approved by EPA. If folks don't meet the criteria, they are then made available for low interest loan, reduced interest rates, extended terms, grants and or principal forgiveness loans. Unfortunately, there is never enough grant and principal forgiveness dollars to meet demand. As a result, PENNVEST has to prorate those dollars and make up the difference with low interest loan dollars and let the applicant decide whether to accept or reject the offer. PENNVEST does everything it can to make the best offer possible.

4. **Comment:** As in 2024 with regard to updating the IUP to provide additional subsidy for sustainable water projects, the commenter references that "Federal law mandates that 49% of CWSRF General Supplemental Funding must be provided as grants and forgivable loans to applicants that either meet the state's affordability criteria, or for projects that 'mitigate stormwater runoff' or 'encourage sustainable project planning, design, and construction'… Per the IUP, whether an SRF applicant will receive additional subsidy is determined only by PENNVEST's Affordability Criteria. It does not appear that the IUP allows applicants seeking funding for projects that mitigate stormwater and/or encourage sustainable project planning, design, and construction to obtain additional subsidy support unless they **also** meet the Affordability Criteria. This gap potentially puts the CWSRF at odds with the Clean Water Act." The Commenter is recommending that PENNVEST "allow for additional subsidy, when appropriate, for the types of sustainable water projects outlined in Section 1383(i)(1)(B)" and update the IUP to reflect the following section on page 16 after the paragraph on "Financing Rates": "Projects that Mitigate Stormwater and/or Encourage Sustainable Project Planning, Design, and Construction: As specified by the Clean Water Act, projects that mitigate stormwater and/or encourage sustainable project planning, design, and construction are eligible for additional subsidy in the form of forgiveness of principal, grants, negative interest loans, other loan forgiveness, and through buying, refinancing, or restructuring debt. Applicants seeking funding for projects that mitigate stormwater and/or encourage sustainable project planning, design, and construction may receive additional subsidy even if they do not qualify under the Affordability Criteria or as a disadvantage community set out above. The type of additional subsidy will be determined on a project-by-project basis. Principal forgiveness subsidies will be prioritized for nature-based green stormwater infrastructure projects. This update would fully implement the Clean Water Act authorities and federal law priorities for Pennsylvania" as well as "advance PENNVEST's long-term goals that the CWSRF support and implement 'infrastructure sustainability initiatives' that protect public health and the environment… PENNVEST responded that 'PENNVEST does not have the discretion to establish its own priorities for the use of BIL funds.' The commenter stipulates that their "recommendations do not require PENNVEST to establish its own priorities for federal funds; they would ensure, instead, that the IUP is aligned with the express federal law priorities, as well as the Clean Water Act. Moreover, PENNVEST's authorizing legislation and governing regulations appear to allow this approach to additional subsidy." **(1)**

Response: Under the section titled "Increased Investment in Disadvantaged Communities," the BIL implementation MEMO states the following:

"For the CWSRF, the BIL mandates that 49% of funds provided through the CWSRF General Supplemental Funding must be provided as grants and forgivable loans to the following assistance recipients or project types:
• Municipalities that meet the state's affordability criteria.

• Municipalities that do not meet the state’s affordability criteria but seek additional subsidization to benefit individual ratepayers in the residential user rate class.
• Entities that implement a process, material, technique, or technology that addresses water or energy efficiency goals; mitigates stormwater runoff; or encourages sustainable project planning, design, and construction.

Congress, acting in a bipartisan fashion, included these provisions to ensure that disadvantaged communities fully benefit from these historic investments in the water sector. EPA will actively work with states to fully meet Congressional intent. This will include helping states identify communities in need, affirmatively reviewing SRF IUPs, and conducting annual reviews that evaluate progress toward this bipartisan requirement.”

PENNVEST is currently meeting the requirement that 49% of the CWSRF General Supplemental is provided as grants or principal forgiveness loans. PENNVEST administers the 49% as principal forgiveness loan as it comes with less requirements than if it were administered as a grant. For all purposes, principal forgiveness loan acts as a grant, it does not require repayment. The affordability analysis is utilized to make the determination on which projects qualify for such funding in order to remain consistent across all program and project types. Unfortunately, there is never enough grant and principal forgiveness dollars to meet demand. As a result, PENNVEST has to prorate those dollars and make up the difference with low interest loan dollars and let the applicant decide whether to accept or reject the offer. PENNVEST does everything it can to make the best offer possible.

ATTACHMENT A
LIST OF COMMENTERS

(1) Caroline Koch, WaterNow Alliance and PennFuture, 1016 Lincoln Blvd., San Francisco, CA 94129
(2) Gabriel Gray, Pittsburgh United, 7252 Kedron Street, Pittsburgh, PA 15208
(3) Chavaysha Chaney, Upstream Pgh, 321 Pennwood Ave Suite 202, Pittsburgh, PA 15221