



THE  
ENVIRONMENTAL  
COUNCIL OF  
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January 9, 2012

Ms. Barbara Bennett  
Chief Financial Officer  
Office of the Chief Financial Officer  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., NW  
Mail Code: 2710 A  
Washington, DC 20460

Dear Ms. Bennett:

Greetings to you and best wishes for a happy 2012.

At the 2011 ECOS Annual Meeting in September, you raised important issues with states regarding unobligated (UO) funds from the U.S. EPA to states and unliquidated obligations (ULO) remaining for state expenditure. States agree with you about the urgent need for both timely award of grants by the U.S. EPA to the states (to reduce the overall amount of UO funds) and for timely expenditure of grant funds by states (to reduce the overall amount of ULO funds). As you may recall from the discussion at our meeting at the EPA offices in Washington on October 3, 2011, ECOS and I are committed to working with EPA to address both the UO and the ULO balances. The ECOS Planning Committee has taken the lead on this issue for ECOS, and I have been working closely with the Committee's leadership on this effort. The purpose of today's letter is to convey some of ECOS's concerns regarding this on-going effort to address both the UO and ULO balances and to ask for your help in addressing these concerns.

### **Ensuring Timely Grant Awards from the U.S. EPA to the States**

First, I ask for your help in ensuring timely grant awards by the U.S. EPA to the states. As you know, U.S. EPA's FY12 budget was enacted on December 23, 2011. This is three and one-half months earlier than the FY11 budget enactment in mid-April 2011. It is ECOS's understanding that each year the U.S. EPA's Office of Grants and Debarment (OGD) publishes an "Advice of Allowance" memo from its grants office to National Program Managers (NPMs) and regional offices under guidance from your office, and this document.

As you are likely aware, OGD has sought input from the states in the development of timelines by which EPA sets a goal of awarding 100 percent of grant awards for negotiated state grant workplans. For FY11, EPA set a goal of 100 percent award by July 31, with an outer limit of August 15. In responding to OGD's request for input on the FY12 timeframe for grant awards, states (as represented by ECOS) suggested an EPA goal of 100 percent grant awards by March 15, with an outer limit of April 1. This is a slightly shorter timeframe than in FY11 (3.5 months rather than 4 months following enactment). Given the need for

for funds at the state level and the great interest by the U.S. Congress in both the UO and ULO balances, EPA could both demonstrate and underscore its commitment to this matter by setting a more aggressive timeframe from the previous year for making 100 percent of state grant awards that are ready to go and approved by the Regional Administrators. As your office oversees budgeting and accounting, I request your help in establishing an expedited award goal.

Further, OGD's draft memo on which comments were requested from the states excepts some state grants from the goal of 100 percent award by the timeframe, including Nonpoint Source Management (Section 319(h)) grants. As the ECOS Planning Committee digs deeper in its analysis of the ULO balances, we are learning that for categorical grants older than the current fiscal year, Section 319 grants constitute approximately 60 percent of the ULO balance, by far the largest portion. As such, states, in their response to OGD, requested that the U.S. EPA set a goal of also making every attempt to process 100 percent of these excepted awards by March 15, 2012 (with an outer limit of April 1, 2012) if FY2012 workplans are otherwise fully negotiated. States ask for your assistance in encouraging OGD to also incorporate this goal into its FY2012 "Advice of Allowance" memo.

### **Promoting Timely Grant Expenditures by the States**

Second, I ask for your assistance regarding timely grant expenditures by the states. In October 2011, you testified at a hearing held by the U.S. Congress and were specifically asked about appropriation balances. On December 2, 2011, U.S. EPA Administrator Jackson sent letters to state governors asking for their personal involvement in ensuring that states move quickly to apply for clean water and drinking water State Revolving Fund grants and to then make awards for local projects that result in job creation and support the well-being of communities. In the FY12 budget that was recently enacted, U.S. EPA and several other federal agencies have been directed to report quarterly on the status of balances of appropriations, with initial reports to be submitted within 30 days of the end of the first quarter of fiscal year 2012 (i.e., by January 30, 2012). The reports are required to provide Congress with information on "obligated but unexpended" balances by source year, as well as other information.

As ECOS begins to learn more about the ULO balances from the data ECOS has received from the U.S. EPA, it appears that some percentage, perhaps a significant portion, of the "obligated but unexpended" balances fall within their respective grant project periods and, therefore, remain open. Any grant awarded by EPA but not fully expended by a state may fall under a broad ULO definition no matter if the grant is one week, one year, or several years old. Particularly for Section 319 grants and for clean and drinking water infrastructure grants, the three funding categories where the largest ULO balances reside, these are used to fund multi-year projects often lasting three, four, five years or more. As such, it is expected that there will be "obligated but unexpended" balances for periods of several years for each grant cycle. Even with timely awards by EPA and with awards by states to local governments for projects that have been fully vetted and are "ready-to-go," time is required to ensure proper oversight of contractor awards, construction, and draw-downs by local governments and, finally, by the states. Some states may also bundle and issue infrastructure grants to maximize favorable rates. These and many other legitimate and diligent steps may have an impact on the pace of state draw-downs. In ECOS's opinion, it is critically important that this background information be provided as an integral part of any reports or analyses that may be published or released by EPA regarding ULO balances, regardless of whether such reports or analyses are solely for EPA's internal use or are intended for distribution to Congress or other audiences.

Sue Bangert and Martha Rudolph, the ECOS Planning Committee Chair and Vice Chair, respectively, are scheduled to speak with you in more detail on this topic on January 20. With this letter, I am seeking to also emphasize how important ULO contextual information is and to ask for your help in ensuring that this crucial information is conveyed together with information about obligated but unexpended appropriations balances as EPA talks about ULO balances generally and as EPA prepares and submits its first and subsequent reports to Congress on this topic.

We both are aware of the importance of being diligent stewards of financial resources to further our joint efforts to protect human health and the environment. As EPA's lead budget officer, your role in fostering the State-EPA relationship is an important one and I appreciate your commitment of EPA's resources to this topic. I ask for your help to make progress in the areas identified above.

Please feel free to contact me or the ECOS Planning Committee at any time. I can be reached at [Thomas.burack@des.nh.gov](mailto:Thomas.burack@des.nh.gov) or (603) 271-2958. I look forward to hearing back from you.

Best Regards,



Thomas S. Burack  
ECOS President  
Commissioner  
New Hampshire Department of Environmental Services

Cc: Suzanne Bangert, Wisconsin, ECOS Planning Committee Chair  
Martha Rudolph, Colorado, ECOS Planning Committee Vice Chair  
Howard Corcoran, U.S. EPA Office of Grants and Debarment