



ECOS

**THE  
ENVIRONMENTAL  
COUNCIL OF  
THE STATES**

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Executive Director &  
General Counsel

July 10, 2015

The Honorable Gina McCarthy, Administrator  
A. Stanley Meiburg, Acting Deputy Administrator  
U.S. Environmental Protection Agency  
William Jefferson Clinton Federal Building  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

*Via E-Mail Transmittal*

Dear Administrator McCarthy and Deputy Administrator Meiburg:

On behalf of the Environmental Council of the States (ECOS), the national non-profit, non-partisan association of state and territorial environmental agency leaders, we are pleased to submit to you in writing our perspectives on key priorities that will benefit both the U.S. Environmental Protection Agency (EPA or Agency) and states in the Fiscal Year 2017 (FY17) budget development. We thank you for hearing our perspectives at the budget dialogues held for states, tribes, and local governments on May 6 and for states on June 11. Your willingness to receive input on the budget development process demonstrates a strong commitment to the following strategies for successful implementation of environmental programs: a strong and collaborative co-regulator relationship, the development of shared priorities, the value of joint governance, and the importance of finding ways to enhance flexibility so that environmental commitments are met in an effective and efficient manner.

ECOS recommends that EPA's FY17 budget place emphasis on the following areas.

**I. Resourcing the Implementation of New Programs and Regulations**

The Agency has many regulations in play that will actively impact state resources in FY17. Among them are the Clean Power Plan, possible new ozone and fine particulate standards, the coal combustion residuals rule, the new Clean Water Rule, an updated water quality standards rule, the National Pollutant Discharge Elimination System (NPDES) e-Reporting rule, implementation of the Safe Drinking Water electronic system SDWIS Prime, the Resource Conservation and Recovery Act (RCRA) e-Manifest rule, and the 2015 Revised Underground Storage Tank Regulations. As such, the FY17 budget proposal must reflect as a priority an increase in State Tribal Assistance Grant (STAG) funding as well as an increase in the Leaking Underground Storage Tank (LUST) grants in order to support implementation of any new or recent regulations. A commitment in the FY17 budget to timely implementation guidance on new rules and programs is important to states and is a long-standing state principle for working with EPA.

## **II. Supporting Core Work and Advancing Implementation Flexibilities**

The new regulations and programs mentioned above are in addition to states' existing workload of permitting, compliance, enforcement, monitoring, and community and stakeholder outreach. The reality is that many of these core programs are currently underfunded. Accordingly, EPA's FY17 budget must recognize the obligations of this core work, and support as robust STAG funding as possible to allow it to continue.

One way to further leverage existing limited resources is to advance flexibility in program implementation. ECOS has recently worked closely with the Agency to document flexibilities that allow resources to be put towards areas in greatest need of compliance assistance, most at risk of violation, and that streamline state and federal workloads.<sup>1</sup> ECOS is committed to continuing to work with EPA to identify and implement additional flexibilities that allow us to work smarter and more effectively. Closely related is states' desire to work with the Agency to move towards more outcome based measures as envisioned in the National Environmental Performance Partnership System.<sup>2</sup> The FY17 budget should discuss the connection between developing more effective measures and stretching state and federal resources.

Resources to support E-Enterprise for the Environment should be provided for in the FY17 budget. The efforts underway through E-Enterprise for the Environment are supporting a modernization of environmental systems, processes, and approaches across EPA and states, and are already showing positive returns on investment.

The FY17 budget needs to acknowledge that some of the funding formulas for STAG allocations are changing. As a result of these changes, some states will see resources increase while others will see a decrease – if the “whole” remains constant. It is critical that EPA provide this FY17 budget information to states early in the process, so that states can appropriately plan their own budgets.

We urge EPA to openly plan for rescissions in the FY17 budget. While ECOS is opposed to rescissions as they prevent states from completing core work and meeting obligations, they are becoming a regular feature of Congressional budgets. To that end, an upfront plan for rescissions is preferable to states than implementation later in a fiscal year when it becomes more difficult for states to make the necessary adjustments to their budgets.

The FY17 budget should also acknowledge that new efforts and requirements should be minimized as 2017 is in the middle of a two-year NPM guidance cycle and multi-year state grant work plans. Finally, the FY17 budget should state how the Agency Priority Goals may affect or direct state investments of STAG dollars, affect work plan commitments, or otherwise change state priorities.

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<sup>1</sup> <http://ecos.org/section/committees/planning>

<sup>2</sup> <http://www.epa.gov/ocir/nepps/>

### **III. Budgeting for the Inevitable: Emergency Situations**

Every year, states and Regions face unexpected emergency situations, such as hypoxic conditions, drought, flooding, spills, extreme weather, and other environmental emergencies. The FY17 budget should plan for funds to be directed towards emergency events, without diluting the ability to deliver on core work. Once again, flexibilities can assist – in a state facing an emergency response, Regions should be prepared to quickly modify work plan obligations to reflect resources directed towards the new emergency priority.

### **IV. Leveraging Training and Capacity Building Opportunities**

ECOS suggests that the FY17 budget include beneficial concepts such as joint state, local, or tribal trainings on areas of common interest – which would likely be non-regulatory - such as resilience and adaptation; emergency response training, or Lean government. It could also identify topics where national training will be made available to reduce unnecessary regional differences, and to document of success stories that facilitate the extraction of lessons from complex permitting, enforcement, or community relations situations to benefit states, Regions, local governments, and tribes.

### **Conclusion**

In closing, ECOS recommends that the FY17 budget developed by EPA strike a balance between resourcing the many new initiatives started by the current Administration, supporting core programmatic and implementation work and training, and leaving room for and extending flexibility to states to respond to state and regional priorities as well as emergencies and natural disasters.

The FY17 budget should promote efficiency by aligning consultation processes and clearly setting forth, where possible, roles and responsibilities, and put a priority on funding core functions and environmental service delivery. It should support coordination of state and U.S. EPA research functions, as well as recognize human, monetary, and temporal resource limitations.

We thank you for the opportunity to be a part of the budget preparation discussions, and are available at any time to discuss our input further with you.

Sincerely yours,



Robert J. Martineau, Jr.  
ECOS President  
Commissioner, Tennessee Department of Environment and Conservation

Letter to EPA on FY17 Budget  
July 10, 2015  
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Cc: ECOS Officers, Executive Committee, and Membership  
David Bloom, Acting Chief Financial Officer, Office of the Chief Financial Officer  
(OCFO), EPA  
Carol Terris, Director, Office of Budget, OCFO, EPA