TDEC Response to Public Comments on Draft *Water Infrastructure Investment Plan*

The Tennessee Department of Environment and Conservation (TDEC) thanks the many stakeholders who submitted comments during the open public comment period for the draft *Water Infrastructure Investment Plan*. During the comment period in October 2021, TDEC received approximately 300 unique comments from 148 individuals or entities, translating into 85 pages of condensed, unique comments for consideration. In the draft plan, TDEC included nine (9) prompts for public comment. Many of the comments and recommendations received during the public comment period are organized into these prompts. TDEC did receive some comments that could not be organized into the prompts, which are represented in the "General Comments Section."

TDEC issues the following response to public comments. This document serves to provide stakeholders with additional information and indicates changes made to the draft plan during final plan development. The complete list of comments and recommendations is attached as an Appendix to this response to comments.

TDEC's *Water Infrastructure Investment Plan* may be found on the TDEC ARP website.

TDEC Prompts from Draft Plan

- *What types of systems that align with Treasury ARP rules warrant inclusion in this plan?*

TDEC received zero (0) comments and four (4) recommendations under this prompt.

Most comments supported the types of systems that are included in the draft plan. One commenter asked for clarification about "stormwater management systems."

> ***Response****:* In the Draft Plan, stormwater management systems referred to systems and practices engineered to manage, reduce, infiltrate, reuse, capture, treat, and mitigate stormwater. Many communities use stormwater management systems regardless of utility ownership or legal designations. TDEC intends to improve clarity about eligible system types for funding by identifying cities and counties with responsibility for drinking water systems with a Public Water System Identification (PWSID) or public wastewater and stormwater systems with a National Pollutant Discharge Elimination System (NPDES) permit or a State Operating Permit (SOP).

Municipal Separate Storm Sewer System (MS4) programs and utilities qualify under this designation.

- *Are counties well equipped to serve as the primary subrecipient of these funds, acting as a pass-through entity to municipalities and/or water systems included a county?*

TDEC received sixty-eight (68) comments and ten (10) recommendations under this prompt.

Most comments focused on the challenges of counties serving as the primary subrecipient for the non-competitive grant dollars under the Water Infrastructure Investment Program. These challenges included, but were not limited to a lack of staff and dedicated resources to plan, administer, and oversee grant execution responsibilities; the inability to coordinate utility project planning and prioritization; that counties often do not own or operate utilities or water infrastructure facilities; that counties lack the appropriate information and technical expertise to develop projects and proposals; that counties do not want oversight and monitoring responsibilities; concerns about how to distribute funding amongst systems and potential inequities in distributing dollars; that counties do not want to leverage local ARP dollars to meet co-funding requirements; political or other tensions between cities and counties and the role of politics in distributing dollars; that some utilities cross county boundaries; and that county and system priorities may not align and this misalignment may impact project and proposal development. Commenters noted that the landscape of suitability for counties to serve as subrecipients varied, with some counties well-equipped and others ill-equipped. A few commenters discussed concerns that counties would want to use dollars to expand services to county residents rather than address existing infrastructure, which points to potential misalignment of county and system priorities.

Many comments recommended changing subrecipient eligibility to include cities and/or utilities. Commenters noted that the dollars should go more directly to systems, as system officials are more familiar with system needs, priorities, and technical development of projects.

> ***Response***: Based on the substance and volume of comments received, TDEC has expanded subrecipient eligibility to include both counties and cities (incorporated) in the final plan. The three metropolitan governments are treated as county subrecipients. A complete list of funding allocations for counties and cities may be found in the final *Water Infrastructure Investment* Plan. TDEC believes this plan will

capture municipally owned systems, as well as county owned systems. These entities may independently apply for a non-competitive grant.

TDEC recognizes some county and city managed utility systems operate and serve residents beyond their jurisdictions. Collaboration across these local governments is strongly encouraged. Community leaders should work together, across these jurisdictions, to prioritize and fund critical need projects. Cities and counties are also expected to collaborate with utility districts that serve their jurisdictions. Collaboration and mutual financial support between these entities is encouraged to comprehensively address water system challenges.

A few comments requested specific guidance or support from TDEC relating to disbursement of dollars at the subrecipient level. Specifically, commenters asked for an approach of how to divide money between systems; additional information about project and proposal development and submittal, including deadlines; and the desire to use interlocal agreements.

Response: By expanding subrecipient eligibility to include eligible cities and counties, including metropolitan governments, and recognizing that over half of the water and wastewater systems in the state are city or county operated, TDEC anticipates a simplification of disbursement dollars from subrecipients to systems. TDEC encourages cities, counties, and metropolitan governments that receive service from external partners to distribute dollars to the systems that serve their population and have prioritized critical areas of need. TDEC expects pooling of available resources and sharing in co-funding requirements for all proposals that include more than one entity.

TDEC will release a non-competitive grant manual in early 2022 with additional details about project and proposal requirements, including the process for development and submittal. The grant manual will also contain pertinent deadlines and logistical information about proposal submittal and grant execution. Following release of the grant manual, TDEC will host training workshops across the state to provide technical assistance to systems, cities, and counties regarding the non-competitive grant process.

- *What alternative approaches to distribution of funds will balance state and local government and other subrecipient administrative and compliance burden?*

TDEC received fifteen (15) comments and twenty-four (24) recommendations under this prompt.

Many of the comments received under this prompt align with concerns in the prior prompt. Additional comments included a request for a cap on spending for administrative expenses on local governments and additional clarification around eligibility of these expenses. Many commenters reiterated the desire for dollars to go directly to cities or systems rather than through counties and mentioned that increasing the administrative burden on the state through additional subrecipients will be offset by reducing the administrative burden on local governments. Some commenters expressed a desire for enhanced flexibility to administer funds to systems if counties will not accept the dollars.

> ***Response***: TDEC notes the expansion of eligible subrecipients to include cities and counties, including metropolitan governments, will capture most publicly owned systems across the state. TDEC requests these entities work with utility districts and other systems that serve their citizens, on project and proposal development. Counties, cities, and metropolitan governments should consider a partnership process like that used with Community Development Block Grants.
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> TDEC will impose a cap (6% of funding allocation) on dollars that may be used for pre-grant collaborative planning and administrative activities in the *Water Infrastructure Advisory Plan*. This cap aligns with the state-level cap (6%) for administrative activities. TDEC considered administrative expenses associated with other programs and consulted with partner agencies to determine the 6% cap. TDEC will include additional information about administrative activities and procurement requirements in the forthcoming non-competitive grant manual.

- *What allocation approach makes sense and what specific suggestions for alternative arrangements are feasible?*

TDEC received seventeen (17) comments and thirty (30) recommendations under this prompt.

TDEC received a variety of comments on the proposed allocation approach. Many commenters flagged that infrastructure is more expensive to build and maintain in rural areas due to the low density of rate payers and larger distances required to install infrastructure. Other comments indicated that urban communities were not receiving adequate funding, as evidenced by the lower dollars per person allocated to those counties. Several comments emphasized that disadvantaged communities should receive additional funding. Commenters from highly visited areas pointed to a lack of accounting for tourism and non-residents in allocating dollars. TDEC received a variety of recommended allocation formulas.

> ***Response***: TDEC has weighed the substance and volume of comments by stakeholders and has modified the funding allocation tables. TDEC requested input from Economic and Community Development, Finance and Administration, the Office of the Comptroller of the Treasury, and economists and reviewed all comments submitted on the draft Plan to develop a new funding structure. The new funding structure divides dollars based on three (3) variables: a base (or equal) allocation to provide subrecipients with "seed" money to conduct at least one project, a population allocation to serve as a proxy for customers served, and an Ability To Pay Index adjustor to meet state and federal priorities of distributing additional dollars to disadvantaged communities.
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> TDEC acknowledges funding allocations will not exactly mirror system needs and challenges. Additionally, TDEC notes that not all water system challenges can or will be solved with state and local fiscal recovery fund dollars given the magnitude of need and the ARP timeframe. TDEC encourages communities with needs that exceed the allocation provided through the Water Infrastructure Investment Program to consider how to leverage these dollars for planning and investigation activities that will set systems up for future financial investments in infrastructure. TDEC may deploy dollars from the state-initiated strategic project fund to support communities that need additional assistance with water infrastructure projects.

TDEC received comments regarding the Justice40 Initiative, a new federal policy directed to increase federal investments to disadvantaged communities.

> ***Response***: The Justice40 Initiative, included in Executive Order 14008, sets a goal to provide 40% of benefits realized by federal investments to disadvantaged communities. As of December 2021, the Justice40 Initiative is in a pilot phase with various programs across the federal government to develop and define aspects of the initiative, such as how to quantify and measure benefits realized from federal investments, how to define disadvantaged communities, and how to engage with communities. The Justice40 Pilot Program is supported by interim guidance, released

in July 2021, but lacks critical details needed for robust implementation across programs.

TDEC's State Revolving Fund (SRF) program partnered with the University of Tennessee's Institute of Agriculture to develop an Ability To Pay Index (ATPI), as required by state and federal statute, to distribute SRF subsidies. SRF's ATPI assesses the economic health of a community, using socio-economic and financial data relative to the state. A community's ATPI is determined using variables such as median household income, poverty rates, reliance on food stamps, unemployment rates, community revenue, debt, assets, and expenditures, along with changes in population. ATPI values have been calculated for all 95 counties and 347 cities and towns in Tennessee. An ATPI of 50 or below is considered disadvantaged. The new allocation divides $1 billion dollars with 59% of the funding being allocated to disadvantaged communities and 41% to non-disadvantaged communities. 55% of all eligible communities are allocated $1 million dollars or more.

Without further guidance and direction from the federal government, TDEC is using the established ATPI as our best available information to help support underserved and disadvantaged communities.

Several commenters requested that TDEC use the 2020 census counts in the allocation formula.

Response: TDEC utilized the 2020 census counts in the *Water Infrastructure Investment Plan*.

Some comments requested that TDEC further specify how funding should be disbursed amongst water, wastewater, and stormwater projects. Some requested that TDEC provide an allocation structure for how a subrecipient should disburse money to projects and systems. Additionally, commenters asked for guidance from TDEC to have subrecipients rank or prioritize projects that are proposed by systems.

Response: TDEC recognizes that communities and systems face unique challenges and have independent priorities and needs. Therefore, TDEC looked to retain flexibility in how systems, cities and counties, including metropolitan governments, allocate and distribute dollars among different water infrastructure systems based on highest need and ARP timeframe feasibility. TDEC encourages collaborative conversations between systems and cities, counties, or metropolitan governments, with potential support from outside entities, to identify priorities and develop projects.

Under the non-competitive grant, TDEC will not rank or prioritize projects or proposals. Rather, all proposals that meet minimum criteria detailed in the upcoming grant guidance may access grant dollars. TDEC recognizes that not all infrastructure needs are fully funded under the allocation formula. TDEC encourages funding the highest impact projects with the best chance of feasibility and completion within the timeframe allowed. Subrecipients should evaluate all water infrastructure needs in their jurisdiction and have open, collaborative conversations with all systems providing water or wastewater services to their residents to develop the highest and best use of funds proposals.

In an effort to support community-based prioritization based on critical needs, all systems will be required to complete a Tennessee Infrastructure Scorecard to access dollars under the Water Infrastructure Investment Program.

TDEC's SRF loan program, in collaboration with the Tennessee Association of Utility Districts, developed the Tennessee Infrastructure Scorecard, an online tool to support analyzing a water, wastewater, or stormwater system's financial, operational, and environmental health. This Scorecard may serve as a needs assessment for systems to support development of projects that are high-impact, address system challenges, and demonstrate a positive financial, operational, or environmental outcome. Further, subrecipients should anticipate addressing critical needs in ARP grant proposal development to be eligible to receive funding.

- *What sources of funds such as federal, state, or local funds, and what type of co-funding, such as direct, indirect, or in-kind should be accepted?*

TDEC received nineteen (19) comments and thirteen (13) recommendations under this prompt.

Commenters primarily focused on the bracketed co-funding requirement, specifically, cities and counties, including metropolitan governments, differ in their ATPIs and the desire for a single state-wide match. Some suggested co-funding for distressed and/or small population counties be dropped and noted that communities with an ATPI of 50 or less should have the lowest co-funding bracket. A few comments wanted the co-funding requirement eliminated entirely.

Response: The interim final rule indicates that recipients (i.e., State of Tennessee) may "direct funding to their own particular needs and priorities and would not preclude recipients from applying their own additional project eligibility criteria" to funds.[1] The Governor's Financial Stimulus Advisory Group determined co-funding will be part of the required criteria to receive State Fiscal Recovery Funds. TDEC has aligned cities and counties, including metropolitan governments, with their respective ATPI for co-funding. TDEC also expanded the number of communities with the lowest co-funding (20%) requirement to include all disadvantaged communities (ATPI of 50 or less).

In the final plan, additional strategies to lower co-funding requirements by up to 10% based on project type are provided and leveraging of local fiscal recovery funds to meet co-funding requirements is incentivized. If multiple entities collaborate on projects, then project co-funding requirements will be that of the lowest of the partners involved.

The combination of proper ATPI alignment for co-funding, expanding the lowest co-funding requirement of 20% to include all disadvantaged communities (ATPI of 50 or less) and including a variety of additional incentives to lower co-funding totals should have a positive impact on all systems that struggle to secure local dollars to meet this requirement.

Other comments focused on the nature of the co-funding, including the concern that communities would be "penalized" for not using local ARP dollars to co-fund. Commenters requested that TDEC use maximum flexibility in funding sources that are eligible for co-funding requirements. One commenter noted that "creative accounting" should be discouraged.

Response: TDEC will utilize maximum flexibility in funding sources that are eligible to meet co-funding requirements. Local fiscal recovery fund dollars are *not* the only way to meet co-funding requirements and communities will not be penalized for using their local fiscal recovery funds on other projects. TDEC will accept cash and in-kind contributions to meet co-funding requirements. TDEC included information about co-funding requirements in the final plan and will include additional information in forthcoming grant guidance.

[1] Coronavirus State and Local Fiscal Recovery Funds, 31 CFR Part 35

- *How, through this Water Infrastructure Investment Program, can TDEC further support subrecipients in engaging in planning and identification of projects for inclusion in proposals?*

TDEC received eleven (11) comments and three (3) recommendations under this prompt.

TDEC received several recommendations under this prompt, including the request for workshops, online materials, and recommendations to expedite regional projects; to clearly define eligible expenses; and to collaborate with an organization such as the Tennessee Association of Utility Districts to support proposal development. One commenter focused on the importance of city and system involvement in project identification and development. One commenter asked for state-initiated strategic project dollars to be allocated, in part, to capital improvement plans for systems.

> ***Response***: TDEC plans to host regional workshops to support systems, cities, and counties, including metropolitan governments, in project and proposal development following release of the non-competitive grant manual in early 2022. These materials will be made available on the TDEC ARP website. TDEC notes online and in the final investment plan that eligible activities for the Water Infrastructure Investment Program align with Clean Water and Drinking Water State Revolving Fund eligibility. TDEC will work to further support systems, cities, and counties, including metropolitan governments, with more specific guidance on eligible expenses in the forthcoming grant manual.
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> In the non-competitive grant framework, TDEC anticipates that systems will play a leading role in project identification and development. Systems will need to collaborate with cities and/or counties, including metropolitan governments, in proposal development and project aggregation.

- *What additional actions can TDEC take to more fully inform interested stakeholders on its plans for deploying these funds and the non-competitive grant program in particular?*

TDEC received zero (0) comments and nine (9) recommendations under this prompt.

Recommendations received under this prompt focused on interest in regional and/or individual engagement with systems, cities, and counties, including metropolitan governments, maintaining an active and updated website, notifying stakeholders of updates and changes through the email distribution list, and maintaining open and frequent communication. One commenter asked that TDEC engage in early conversations with stakeholders about projects that are unlikely to be completed under the ARP timeframe.

> ***Response***: TDEC is and will continue to engage in open, frequent, and proactive communication with stakeholders regarding the Water Infrastructure Investment Program. TDEC maintains and regularly updates its website (tn.gov/environment/arp) with updates and shares major updates with proactive emails to the email distribution list. In January 2022, TDEC will host a webinar series, open to all interested individuals, covering the final investment plan. Following release of the non-competitive grant manual in early 2022, TDEC will host training workshops regionally across the state to provide technical assistance to stakeholders regarding the non-competitive grant process. As a part of the grant manual, TDEC will provide information about project types that are feasible to accomplish under the ARP timeframe.

- *What current water infrastructure data and information challenges exist today, and how could a state-led project alleviate those challenges?*

TDEC received nine (9) comments and five (5) recommendations under this prompt.

Comments and recommendations received under this prompt primarily focused on the build-out of technology, including GIS and electronic data systems that supports asset management planning across the state. One comment focused on data consistency and asked to expand the use of the Tennessee Infrastructure Scorecard to an annual submittal. Some comments focused on the need to procure software or other tools and train users on these tools. Two (2) comments requested that TDEC form a technical advisory committee or taskforce to support systems and communities with adopting technologies and developing standards and methods that are shared with systems throughout the state.

> ***Response***: TDEC notes the focus on GIS, electronic data systems, and the need for consistency across systems statewide. The Department will continue to explore mechanisms for supporting systems with these needs, including to promote robust asset management planning and sustainable and resilient system operation. Currently, TDEC does not anticipate requiring submission of the Scorecard annually but will require post-project submission of the Scorecard to understand the impact that ARP-funded project(s) had on system performance.

- *What project types and subrecipients should be emphasized through a competitive granting program?*

TDEC received two (2) comments and twelve (12) recommendations under this prompt.

Comments received under this prompt included specific recommendations for competitive granting program priority project types. These recommendations included construction projects (plant replacement, line, and infrastructure upgrades), innovative, sustainable, or resilient projects including the use of technology, and a focus on stormwater. Some commenters requested the use of needs evaluations to develop the competitive grant program.

> ***Response***: TDEC appreciates the early engagement on prioritization of project types for the forthcoming competitive grant program. When TDEC develops the competitive grant program, it will consider factors including needs evaluations (e.g., State Revolving Fund priority list, Tennessee Infrastructure Scorecard results, TN H2O), timeframe for obligating and spending dollars, and gaps identified in the non-competitive grant program.

General Comments

TDEC received a wide variety of comments on important, innovative, or critical project types that should be considered for funding. Green infrastructure, source water protection, regional water supply planning, water loss, compliance, new technologies for wastewater effluent, and eliminating inflow and infiltration were of particular concern for stakeholders. Many commenters expressed interest in rehabilitation of existing infrastructure and construction ready projects, while others were interested in focusing on new service in unserved communities.

> ***Response***: Most suggestions for project types and areas of focus fit within the scope of project eligibilities in SRF guidelines. TDEC, in partnership with a variety of state agencies and partners, has narrowed the most critical need project types to systems with significant non-compliance issues, that lack asset management plans, that have excessive water loss or inflow and infiltration, or with seriously aging and failing systems. Beyond obvious, critical needs, TDEC does not anticipate dictating how systems spend non-competitive grant dollars if projects meet SRF and ARP eligibility requirements and all state and federal permits are acquired prior to

construction. More information on permit requirements can be found in the upcoming grant guidance.

Many stakeholders expressed concern about project logistics, supply chain issues, depreciation, the benefits of shovel ready versus planning and design projects, and general project execution struggles.

Response: TDEC recognizes the wide variety of challenges a community faces trying to execute a capital improvement project. Current economic trends and supply-chain issues increase the complexity and lengthen the timing of projects. TDEC is extending the maximum flexibility afforded states through the Treasury Interim Draft Rule to subrecipients. If federal guidance changes during the ARP grant period, TDEC will consider the changes, make recommendations, and inform applicants and grantees of any grant modifications to requirements.

Depreciation is a burden enterprise funds must comply with based on state statute. TDEC has no authority to modify or wave this requirement. The Office of the Comptroller of the Treasury can address any questions a system may have concerning depreciation.

Given the mix of issues with supplies, access to engineers, and the effects of depreciation on a community's budget, some systems may elect to focus on investigation, planning, and design projects. These project types can be costly and fulfill pre-application requirements for SRF loans. Cities and counties, including metropolitan governments, should consider timelines and feasibility when determining if a construction project or a planning and design project is the best use of state fiscal recovery dollars. TDEC supports a wide range of investigation, planning, and design projects. However, under SRF requirements, these projects must reasonably lead to a construction project. Cities and counties, including metropolitan governments, that propose many planning and design projects without engaging TDEC SRF or Economic and Community Development for a potential construction loan may be discouraged from developing documents that use vital resources without resolving infrastructure needs.

General comments on state coordination of environmental reviews, information on proposal review and award process, milestone expectations for awarded projects, a variety of incentives and other project execution details were noted. TDEC also received several inquiries about use of public funds for private developments and land acquisition.

Response: TDEC recognizes stakeholders want details on how and when project proposals will be received, reviewed, and awarded. TDEC is electing to implement a streamlined State Revolving Fund-style process with the minimum criteria and reporting requirements allowed. Details on the proposal process, incentives, criteria, milestones, and reporting expectations will be detailed in the upcoming grant guidance. TDEC will consider these public comments and recommendations when developing the grant guidance.

Some commenters expressed concern and interest for how TDEC identified and awarded State Strategic Initiative project dollars. There were both positive and negative responses for use of dollars on industrial development and community support near anticipate growth and expansion of industrial sites.

Response: TDEC acknowledges the concerns expressed by our stakeholders on how state strategic funds are allocated. TDEC intends to be cautious and intentional with these funds. Projects will be reviewed on a case-by-case basis as directed by TDEC leadership.

There were a few comments focusing on priority areas identified in the draft plan, and specifically, how the priorities are weighted, the fact that these priorities may limit good projects, and how priority goals are reached in a proposal.

Response: TDEC considered these comments, along with additional changes made in the final plan and has opted to incentivize projects focusing on priority areas in lieu of requiring proposals address multiple priorities. TDEC will expect proposals to address critical needs, as demonstrated through a system's Scorecard, but will not impose a requirement to address a certain number of priority areas of emphasis in proposals.

TDEC received many comments pertaining to environmental justice, primarily indicating that the draft funding allocation did not provide sufficient funding to disadvantaged communities. Some of these comments are discussed in detail in previous sections. Additional response is offered below.

Response: TDEC utilizes the ATPI, which includes nine (9) factors unique to each community (median household income, unemployment, food stamp dependence, families in poverty, community assets, revenues, debt, and expenditures, and change in population), in the State Revolving Fund loan program to set interest rates and award additional subsidies. TDEC considers a community with an ATPI of 50 or less as economically disadvantaged. In the draft plan, TDEC utilized ATPI to determine co-funding requirements, with lower co-funding requirements imposed on communities with lower ATPIs.

In the final plan, TDEC considers ATPI as a variable in the funding allocation formula to meet state and federal priorities of distributing additional dollars to more disadvantaged communities. By including ATPI in the funding allocation formula, TDEC now allocates 59% of the $1 billion available for non-competitive grants, or $590 million, to cities and counties, including metropolitan governments, with an ATPI of 50 or below.

Investment of state fiscal recovery fund dollars into water infrastructure represents an incredible opportunity for water systems across the state. However, TDEC recognizes that these funds are not sufficient to address the $5-15 billion estimated needs for investment in water infrastructure in the state. Additionally, the timeframe associated with these dollars limits the ability for communities to leverage these dollars for large-scale construction projects, with current federal deadlines set at obligating funds by December 31, 2024 and spending all dollars by December 31, 2026. As such, TDEC anticipates that communities may utilize dollars under the Water Infrastructure Investment Program to conduct investigation and planning activities that will poise communities to take advantage of future funding opportunities.

Commenters wanted more information on the Water Infrastructure Advisory Committee, including listing the members and the WIAC responsibilities.

Response: TDEC has developed an Advisory Committee page on its American Rescue Plan website. The page details the background of the committee, membership make-up, goals, roles and responsibilities, and all meeting materials. Stakeholders may visit the TDEC ARP website for additional information.

Commenters requested that TDEC develop and maintain a public dashboard with the status of water infrastructure activities.

Response: TDEC plans to publicize a public dashboard that provides status updates on water infrastructure projects funded through ARP.

One commenter suggested using hydrometeorological data to assess urban stormwater responses and noted that the state should improve its rain and stream gage network.

Response: The activities described in the comment are outside the scope of eligible activities for ARP dollars.

Responses to TDEC Questions on Draft Investment Plan Proposal

- *What types of systems that align with Treasury ARP rules warrant inclusion in this plan?*

Recommendation: Municipal water systems and Utility Districts

Recommendation: Potable water, public sewer systems regulated by TDEC, and stormwater improvements.

Recommendation: Existing publicly-owned/operated water, wastewater, and stormwater entities. New startup entities created to use these funds should not be included.

Recommendation: The systems proposed for inclusion seem appropriate. However, more clarity is needed as it relates to "stormwater management systems". Does this term indicate only stormwater utilities formally constituted under state law with an adopted user fee structure? If so, the number of those systems is fairly limited with most counties having no such systems. Consideration should be given to allow for stormwater and flood control projects from non-stormwater utility jurisdictions.

- *Are counties well equipped to serve as the primary sub-recipient of these funds, acting as a pass-through entity to municipalities and/or water systems included a county?*

Comment: No. With few exceptions, counties generally do not operate or manage water and sewer utility systems. As such, they have no organizational structure in place to coordinate utility project planning and prioritization. While it may be understandable why the state would want to limit the number of sub-recipients by allocating to counties, such a system will unnecessarily bring political dynamics into the process. The reality in most counties is that municipalities and county government do not have cooperative working relationships, and adding utility districts into the mix will only create additional conflicts with clearly differing priorities.

While the state does propose to require input on the proposed county plan from all systems within a county, that won't guarantee each county's plan is developed in a cooperative fashion. The state should expect multiple county plans to be submitted with objections from one or more systems in those counties. This will simply place the state in the position of having to subjectively pass judgement on each plan. To the extent the state must return plans to counties to be redone, it will only lengthen the time to develop acceptable plans and reduce the actual available project implementation time given the December 31, 2024 funding obligation deadline.

Comment: From talking to my counterparts and based on my own experience, counties are not equipped to serve as the primary sub-recipient. Most counties, including my own, do not have the extra employees, or the extra time to take on the responsibilities required to be a "pass-through" for TDEC and local municipalities. Why does there need to be a "pass-through" for municipalities? What this looks like is TDEC wants the county to be liable for the municipalities and put the counties in a position to be responsible for their actions. Of course, this approach makes this entire process easier for TDEC but puts the burden and responsibility on the counties. If there is a reason to make the counties responsible for municipality water infrastructure spending besides making the process easier for TDEC, l would like to know that the reason is please. l would also like to point out that placing a burden on county government to make TDEC's life easier does not justify implementing this plan.

Comment: No, the county does not own any water facilities. Being a pass through could be a lot of work and auditing headaches with no say so over the money or funds if we are just a pass through. We have 4 cities and 5 utility districts in our county. Each one has the impression they will submit projects, the state will approve them and the county will fund them using its ARP funds in conjunction with the state TDEC dollars. This would make the county just a pass-through agency, causing a lot of work for the county and no say so on the projects. We have 730 homes in our county with no access to public water which we wanted most of the funds to go towards alleviating that problem. The small cities and utility districts say they have other projects they want to do. Also they contend they do not have enough cash to handle the depreciation requirements of the State Comptroller's office on these projects. I think this will be an issue statewide.

Comment: It is municipalities or other public utilities that by in large, take the lead in the administration and operations of utilities. As counties are less involved, there is concern that counties may not know the specific needs of water, wastewater and stormwater systems within their respective counties and may not have the appropriate information to consider how to prioritize projects in terms of system impact, environmental impact, social impact, and community impact. Additionally, by making counties serve as the primary recipient, this may create unnecessary bureaucracy, thus adding to overall costs for administration and slowing down projects that will already be on a tight schedule to meet expenditure deadlines. Finally, there is additional concern that an oversight at the county level would put funding at risk for a sub-recipient in the case of an oversight, whether it be during project execution or during some future audit. As an example, the administration of the SRF program has many requirements to remain in compliance with the funding opportunity without which may put the funds in jeopardy.

Should this method remain the preferred process, it is incumbent upon TDEC to provide assistance to counties in the administration of these funds, perhaps through an assigned consultant from TDEC.

Comment: Here in Robertson County, we have five cities that provide water services to citizens. As the county, we have no oversight or connections to the water systems, the county provides no water services. And some of our cities that have water do not have sewer. In my opinion, it should be up to the cities how the money is divided and spent. I do not believe, as the county mayor, that it should my decision how the funds should be divided among the cities that do provide water services.

Comment: Collierville is concerned that granting counties the primary responsibility to coordinate and identify projects has the potential to 1. create distribution inequities among smaller municipal systems within a county; 2. delay review, approval, inclusion, and/or the distribution of funding for small municipal projects within a county; and 3. impede timely and accurate accounting and reporting on the use of funds as required.

TDEC's guidance clearly communicates consolidation and regionalization of drinking water and wastewater systems as one of its funding priorities. While such efforts will serve some Tennessee communities well, Collierville is concerned that this well-intended priority could possibly be leveraged by counties to "force" smaller municipal systems into agreements that will result in diminished service and infrastructure quality for their citizens and users.

Comment: With all DUE respect to county governments, the majority of them do not operate water, sewer, or stormwater systems and do not understand the regulatory demands, depreciation, etc. They see water as a free resource that should be supplied to remote areas without regard to net positions.

Comment: Hancock County would receive $2.859 million of TDEC ARP funds. Hancock County's local allocation is $1.286 million. There are two utilities in Hancock County: Sneedville Utility District and the City of Sneedville where the local allocation of ARAP funds is smaller (Sewer System). Sneedville Utility District has 925 customers and Sneedville Sewer System has 712 customers. The Hancock County Commission has already made commitments with its ARP funds to address issues such as working in a COVID environment and issues at the jail. There are not any funds left to address the match required for the TDEC ARP funds. Even if they had not made any commitments, their 20% match for the infrastructure would be $715,000, which is most of its ARP funds.

Comment: The county governments are NOT equipped to serve as the primary sub-recipient as they do not have the experience or sufficient knowledge of water and wastewater systems. The County governments do not have an understanding of how the systems work as a whole and therefore cannot make decisions that would be in the best interest of said systems.

Comment: While I cannot answer whether or not any county is well equipped from a staffing standpoint to act as a pass-through entity, the relationships between Counties and Cities within each County could pose issues. Oftentimes the priorities or perceived needs of each may be in conflict. Will the County have full control over whether a municipality receives funds?

Comment: I am totally against letting us administer the money for city sewer and water needs. This will put a burden on the counties and cause the counties to hire additional staff.

Comment: If the fund distribution stays as it is, will there be any type of accountability to ensure the funds are distributed fairly to all municipalities?

Comment: Counties are generally not in the water or wastewater business. Therefore, their only role in the process would be to disseminate the funds. Secondly, the method of determining how those funds are disseminated will likely be driven by political influence at the county level. Take Robertson County for example. We have 11 cities, 5 water utilities (two utility district and three municipalities), and 4 wastewater utilities (three municipalities and one utility district). The county commission is also made up of 24 members. Not all utilities are the same size or have the same level of need. Also, the county general election is next year giving even more rise in potential for politics to have much more of an influence in the dissemination of funds.

Comment: James C. Hailey & Company represents many small and disadvantaged community water systems which stand to benefit from the Water Infrastructure Investment Plan, if administered properly. Unfortunately, there are often differences in opinion with respect to how funds for water and sewer infrastructure should be spent. In this case, providing funding to the County Courts and Commissions (who do not typically have experience with water and sewer department affairs) to pass on to the water systems does not appear to be the most efficient allocation of funding.

Comment: I am a resident and city board member of the small town of Rutherford in Gibson County. We are one of the smaller towns in the county and have very few businesses to draw revenue from. Many of our residents have older water pipes and lines connected to the city system that sometimes require our city's water and street maintenance people to alter their schedules to tend to such. Our small towns are in need of monetary assistance over the needs of the county as a whole. Our county mayor has yet to assist Rutherford in any capacity except riding in our annual parade since his election. Therefore, I ask that you make the decision in favor of assistance being given to city mayors whose purpose is to help their citizens in all aspects.

Comment: We are concerned with the disbursement of formula-based, non-competitive grants through county governments and believe the portion of the funding designated for counties should instead be designated for direct funding of utility districts, municipalities, and authorities.

Comment: With the funds going to the counties, there is no guarantee that the county will distribute the funds based on population or utility customers in the county. How can the utility be assured that they will get their fair share of funds and not have them all go to only one utility in the county? There should be a requirement that distribution be set at a minimum amount based on population in the municipality in the county's jurisdiction.

Comment: If this is truly a utility funding source, why does the county need to be involved when they do not own the utilities in their jurisdiction. That just adds an additional layer of administration and cost thereby reducing the available funds for actual construction. TDEC is reviewing the project submittals so why does the county need to be involved at all?

Comment: We are asking that you: 1. Reevaluate the formula for distributing the money. 2. Allow county mayors significant input in choosing projects to fund; and 3. Provide an administrative fee framework that would allow short staffed counties the ability to pay for help, possibly local Development Districts, in processing and overseeing the grant.

Comment: County governments, in the most part, are adequate to serve as pass through entities. However, most county officials will attempt to utilize the funding to further their agenda. It has been reported that multiple elected officials will require the municipalities to go before the county commission to answer questions and receive funding. This will create problems for the smaller less represented communities. Also, please take into account a county like Van Buren. This county has been under review for allocating money in a way that is not consistent with the rules set by the comptroller or other funding agencies.

Comment: I don't support counties being the primary sub-recipient of the funds. Our utility has facilities in four different counties and that would be very cumbersome to work with. Also, counties will not want to be potentially held responsible for how other entities will spend the money. Funds could be allocated based on county population, but then should be distributed directly to utilities – possibly based on served populations.

Comment: The ARP funding for water and sewer infrastructure is of vital importance to our community. It is our understanding from the Comptroller that the use of the county as the funding mechanism was meant to speed up the fund distribution. It is our concern that this method will only slow the process down and the counties will attempt to control the funding to our communities to use as they see fit. The county commission will seek to further water projects above other needs in our community. Our county had indicated that they would focus on sewer expansion towards their fairgrounds with Cookeville and that they did not feel other sewer projects would be considered for funding under their control. I do not feel they would support any project outside of their goal to expand water lines in the county and that does not match up with our greatest need and priority for our community.

Comment: Placing the burden of serving as a primary sub-recipient on county governments would not be beneficial to water systems/utilities across the state. While l understand that this may simplify distribution of funds, the additional workload on county finance departments, along with the potential for delays in grantee's receiving funds, does not seem to be ideal. Would counties charge and administrative fees? Would this essentially be creating 95 separate water infrastructure plans or sub-plans? Would counties withhold funds or delay payments while drawing interest? Would counties pay out funds in installments? What requirements would counties impose on the end grantee's?

Comment: It is our belief that the current plan of distribution with the Counties as the primary recipient and the utility as sub-recipients is severely flawed. The involvement of the county to control the funding and only support projects as they see fit will likely force our community to not be eligible to address our prioritized projects. We will not be forced to take on projects that will not meet the needs of our community and identified by our scorecard and TDEC as our highest priority projects. These funds are a one-time opportunity for our communities to advance our infrastructure needs in areas identified as greatest need by our community.

Comment: We believe directly funding municipalities, utility districts, and authorities will result in efficient use of funding for the ARP intended projects and will relieve counties of the heavy administrative and political burden of developing a plan to equitably distribute the funds in a way that meets the intended uses of the ARP funds. The additional administrative expense the State will incur due to this change will be offset by a reduction in county administrative fees that will likely have to be paid for using ARP dollars.

Comment: l have concerns about this proposal, the first of which relates to the fact that counties in Tennessee typically are not in the water and sewer business. As such are ill-prepared from a knowledge-based standpoint to equitably evaluate the relative worth of competing water related projects. Additionally, counties, like cities, do not have a surplus of qualified employees available to manage a process of this magnitude. More than likely, counties would need to employ consultants to evaluate proposals and develop the county's funding plan for submission to TDEC. This only adds time and expense before these funds can be put to work as intended by Congress.

Secondly, based on my career working in three cities across Tennessee, it has been my experience that county leaders are more subject to political pressure, which may result in a perception of bias toward county utility districts as opposed to municipal water and wastewater system. l realize there is an expectation of cooperation and coordination as well as proposed criteria and guidelines forthcoming for counties to follow in allocating funds. However, that does not guarantee a fair and equitable distribution to utilities across the state and ultimately their rate-paying customers. Any perception of inequity in funding projects proposed by competing utility systems could be detrimental to the generally fragile working relationships between cities and counties across the state.

Comment: Newport Utilities believes the answer to this question is that the counties ability to serve as the primary sub-recipient varies. There are counties that are likely very well equipped and prepared to act as the sub-recipient and others that are very much ill-equipped, simply due to size and organization. Unfortunately, it is highly likely that many counties on the distressed county list will meet the latter. Newport Utilities fears that this may disadvantage these counties and specifically their respective utilities in vying adequately for the valuable resources distributed using this funding approach strategy.

Comment: I believe in most cases Counties are well able to meet the administer any ARP allocation of funds as stated similar to CDBG thru ECD.

Comment: South Blount County Utility District's (SBCUD) management believes that TDEC Water Infrastructure Investment Plan could be better managed for utility districts if there was an alternate candidate for the sub-recipient. SBCUD is very thankful to have an excellent relationship with the County Mayor and the Finance Director and appreciates their support. SBCUD does not foresee the main leaders at the local level as a problem concerning the sub-recipient. To date, SBCUD's management has had multiple meetings with the Mayor and Finance Director discussing the American Rescue Plan and SBCUD's Capital Improvement Plan (CIP). Our county leaders want to see the projects and the betterment of the county; however, there is much more involved than just these two leaders. There are county commissioners and politics involved which creates delays in the process and hurdles to overcome. Another weighing factor is the lack of understanding regarding utility district operations from some county commissioners; they just expect the utility to be there.

SBCUD's management is thankful to have this period for public comments. Please consider Tennessee Association of Utility Districts (TAUD) as an alternate for the sub-recipient. TAUD has a strong working relationship with Tennessee Department of Environment Conservation (TDEC) and partners with many utility districts daily. With TAUD as the sub-recipient, the administration of this process will be effective, driven by an organization that understands infrastructure, and the hurdles that come with politics at the local county level would be less problematic.

Comment: Our recommendation for the funding is to leave the funding level identified by county as is at $11.3 million but change the distribution plan. We recommend the requests go directly to TDEC for consideration and scored by need and priority. The funding could be dispersed directly to the agency awarded the funding based on TDEC approval. The funding should be used for TDEC and community identified needs and priority objectives as identified by SRF and additional work by the utility to further identify and record the need with a plan for improvement. The greatest need should be addressed first and then filter down from highest priority to lowest. It is our belief that the highest priority need should be rehabilitation projects and new/extension projects identified as lower need on the scale.

Comment: Running a Public Utility generally doesn't fall under the authority of a typical county in the State of Tennessee. Such operations would fall under a municipality, a metropolitan form of government, or a utility district. As such, counties are not familiar with the day-to-day operational needs of the industry. Understanding the normal operating needs of a utility would show the industry is highly capital intensive. These capital needs should be placed in a hierarchy of importance. As counties don't have much experience with the industry, they won't be able to develop a capital needs plan that would benefit the most rate payers.

In review of the audits for our local counties (Johnson, Washington, Unicoi, Carter, Sullivan, and Hawkins) it is apparent that these counties *typically* do not have grants structured that creates a subrecipient relationship. When such a relationship is created, the parent (i.e., the County) would have to monitor the spending of the subrecipient (i.e., the Utility) to ensure the spending is done in accordance with grant restrictions and audit requirements. Seeing as the counties don't have the experience of monitoring grant funding, this process would hinder the timeline for spending and delay the benefits intended for this funding.

With multiple utilities located in most counties, each having different needs, demands, and governing structure, the proposed plan will ultimately still create competition for funds at the local level. This will put the burden of making the selection and allocation among these widely varying utilities on a governing body that has very little to no professional experience in this area.

Comment: I fail to see how distributing these funds to county government better leverages local ARP dollars, this just places another step and a middleman in a process that is already going to be an administrative opus. l admit this sounds good on paper but in practice this will not be a meaningful endeavor. Again, required ARP cofunding being placed on county government IS NOT part of the U.S. Treasury Interim Final Rule.

Comment: The Counties will likely have more audit findings than individual water systems. Through no fault of their own, Counties can be subject to audit findings requiring repayment of funds if used improperly. If the Counties are used as a middle-man, it is much more likely that directions for eligible expenditures and reporting will be miscued. Providing funding directly to water systems, though it would lead to more audits, would likely lead to a smaller overall volume of findings, since the water systems would be directly involved with financing.

Comment: Most counties within Tennessee are not equipped to serve as the primary sub-recipient by which funds should pass through. Particularly those counties that do not operate or manage water and sewer systems; do not have the staff capabilities or capacity to disseminate the funds in a fair and equitable manner; are not aware of the reporting requirements or interim rules governing the distribution of funds; and have in some instances moved forward with setting up an infrastructure committee process in anticipation of the funds; identifying projects without input from ALL towns, cities and utility providers within the county.

The amount of funds flowing through counties may provide incentives to use the funds to dole out political favors. Particularly, the way the funds are to be distributed at the discretion of counties without specific mandates as to how the funds are to be allocated to ALL towns, cities and eligible utility providers/incorporated areas within counties.

Should address conflict of interest where county governing body or an established infrastructure committee made up of the governing body who is an employee or board member of a utility entity within the county.

Comment: Once again, it is expected that the agency receiving the ARP funds should have a plan, a proposal, a committee, and to follow all of the guidance and requirements that TDEC will impose with these funds. It should not be expected that county government be involved in this process on any level without the ability to hire sufficient employees to take on this monumental task that TDEC is suggesting. Again, l will say that county government DOES NOT need to be sub-recipients acting as middlemen for TDEC.

Comment: Huntsville Utility District, along with the Town of Huntsville and the Town of Oneida, are three (3) separate entities that own/operate the water and wastewater infrastructure that serves all of Scott County. Huntsville Utility District serves drinking water to the majority of Scott County, as well as portions of Morgan County, without any assistance or oversight from Scott County government. Huntsville Utility District feels that the water and wastewater infrastructure of Scott County would be better served, by funding provided by the American Rescue Plan, if the funding is allocated directly to the owners/operators of the water and wastewater systems.

Comment: No. Public water/wastewater systems in West Tennessee are predominately if not totally the responsibility of local governments or established utility districts. This funding is more focused than community block grants. Using counties as "pass through" entities will only siphon away funds that can be used to solve problems.

Comment: Our county does not have a water or sewer system - these utilities are provided by the municipalities and at least one water utility district. We feel that if the counties are going to distribute the funds, the state needs to come up with a formula for how the counties should distribute the funds to the municipalities and water systems. If the state is distributing the funds to the counties based on population, we feel that it is fair for the counties to distribute the funds to the municipalities and water systems based on the number of residents or customers served. We understand that there will be some overlap in the number of residents that may be in a city that are served by a water utility, so by using the number of customers served, it might be a better way to distribute the funds.

Comment: We are concerned with the disbursement of formula-based noncompetitive grants through the counties and believe a portion of the funding designated for counties should be designated directly to the water and wastewater provider such as utility districts, municipalities, and authorities. In Tennessee, most counties are not owner/operators of water and wastewater systems. Rather, utility districts and municipalities own and operate most water and wastewater systems and are inherently familiar with the challenges facing those operations. Direct disbursement to entities implementing the project will increase efficiency and timing of project execution.

Comment: The County Mayor and County Commissioners will be in charge of distributing these funds. As a citizen of the Town of Rutherford, I am concerned that the funds may not be distributed fairly to the smaller towns in our county. We may not receive the funds needed to repair our water and wastewater infrastructure.

Comment: TAUD has concerns about counties be the primary subrecipients of the State's ARP funds for water and wastewater infrastructure projects. The Final Plan needs to formulate alternatives to the administration and distribution of State ARP funds when: (1) a county does not have the personnel, resources, or expertise to administer the non-competitive grant program for TDEC; or (2) the county simply does not want to administer the State's ARP funds for the water and wastewater systems in its county. The Draft Plan imposes a significant amount of responsibility on Tennessee counties to administer the State ARP funds for water and wastewater projects. A county appears to be required to do the following items.

- Coordinate with all water and sewer utilities in the county to identify co-funding for projects for the grant proposal for submission to TDEC
- Coordinate with all water and sewer utilities in the county on potential projects for each utility for the proposal
- Prioritize potential projects for water and sewer utilities in the county for the proposal
- Obtain letters of support from water and sewer utilities in support of the proposal
- Explain why any water or sewer utility in the county is omitted from the proposal
- Ensure that its proposal adheres to all the eligibility requirements for projects established by Treasury and TDEC

- Comply with all local, state, and federal granting, financial and procurement requirements triggered by acceptance of State ARP funds
- Submit progress reports in the format requested by TDEC and as required by Treasury of State ARP funds for projects financed by State ARP funds given to the counties

If a county fails to submit progress reports as required by Treasury, it runs a financial risk of having to reimburse State ARP funds as the sub-recipient of these funds. Therefore, TAUD believes the Final Plan must include alternatives to counties administering and distributing State ARP funds.

Comment: First, I would like to state for the record that these ARP funds from the state should not be sent to Counties to be disbursed to the water and wastewater systems in their county. Most County Leaders are not familiar enough with the operations and requirements of a water or wastewater system and as such should not be put in a position of deciding who receives the funds. Also, most counties do not have the staff to handle the additional recordkeeping and reporting requirements required by US Treasury and I'm sure some counties do not want this responsibility or reporting burden.

Comment: I understand that dispersing money to the 95 counties is easier than managing 350 cities, but having county commissions decide water and sewer projects when counties do not normally do that, is concerning to some cities. Portland is working within 2 counties (Sumner & Robertson) to coalesce the cities in determining the major needs with regionalization in mind; but not all county commissioners see that as a priority. It is also hard for communities to assume the maintenance and depreciation liability of regional plans; and local councils may not choose to support those efforts either. 800 million seems like a lot of money until we begin to calculate the cost of these massive projects around the State.

Comment: Many counties are not well equipped to serve as the primary sub-recipient of these funds. Many counties lack the personnel to adequately handle such a responsibility. Counties usually do not interact, nor manage and water systems. Most industrial developments are constructed within city limits to have access to the utilities, especially wastewater. The majority of that burden rests on municipalities, utility districts and energy authorities.

Comment: After considering the comments received, should the state decide to proceed with using counties as pass-through entities, we respectfully request the state implement additional guidelines that will accomplish the following:

- detail the process for submitting projects to counties;
- establish timelines for counties to respond to project proposals;
- specify how funding amounts to local systems will be calculated and the time frame for disbursement of funds; and
- provide a form of redress to the state should the need arise.

Comment: Being that our County doesn't own a utility department, we'd prefer these funds be made available directly to the municipalities or utility districts.

Comment: AS HARDIN COUNTY MAYOR, OUR COUNTY IS NOT EQUIPPED TO SERVE AS A PRIMARY RECIPIENT FOR OUR UTILITY SYSTEMS. WE HAVE FIVE {5} IN OUR COUNTY. WE DO NOT KNOW THEIR NEEDS OR WANT TO BE THE JUDGE OF WHO GETS WHAT PROPORTION OF FUNDING AVAILABLE FOR SUCH PROJECTS AS NEEDED BY THEM. TDEC SHOULD DEAL DIRECTLY WITH EACH OF THEM {BOARDS OR CITIES} ON THEIR NEEDS.

Comment: Using county governments as pass-through agencies only works where city/county relations are not strained, or where program eligibility is completely objective. Any discretionary authority given to county political bodies risks the program not reaching deserving residents and businesses.

Comment: I would like to start by saying that this plan raises more questions and concerns for county government than it provides solutions to the state water infrastructure problems. To further back up my previous statement l would like to ask how many of Tennessee's 95 counties own, manage, or maintain water departments or sewage treatment facilities? A majority of Tennessee's 95 counties are rural, and, in those counties, municipalities own, operate, and manage water and sewage infrastructure. Rural counties in Tennessee DO NOT own or manage water infrastructure. With this in mind, it makes absolutely no sense, and demonstrates a complete misunderstanding of how water infrastructure is operating in Tennessee. Why would a state agency place liability and responsibility on a local county government that has ABSOLUTELY NOTHING to do with the operations or management of water infrastructure?

Comment: We do not believe that funds should be sent to counties for allocation. Counties have no or very little experience with water and sewer planning and operations. Also, many of the cities and districts operate in multi-county environment. We also propose that TDEC use some of the funds to establish a "Blue Ribbon Task Force", to undertake a study to detail the water, sewer and stormwater needs in the state. This would not be a short-term view, but rather a long-term needs assessment. During such a study the concept of regionalization, merger and modernization could be detailed. Also, such a study could focus on underserved portions of the state, as well as, innovations and technology advancements in the industry.

Comment: Funding will be used as bargaining chips between Counties and water systems. By controlling this funding, the Counties will have control over water systems and it is likely some systems will submit to certain "quid pro quo" requests. For instance, a water system may be required to construct facilities not in their capital improvements project horizon in order for the County to allow funding to be allocated for something that is needed. At the very least, there should be guidance from the State regarding the water system's ability to decide what projects are necessary to meet the scope of that individual system's capital improvements plan.

Comment: We agree that domestic water and wastewater should be the primary focus of this plan to not exclude commercial uses that support growth in the community. Although the Counties may be well equipped to serve as the primary sub-recipient of these funds, acting as a pass-through entity to water systems, an alternative to that idea is to make the utilities within each county the sub-recipients of the funds, eliminating a layer of administrative effort. This might avoid political issues with the distribution of the funds. The utilities have managers, engineers, grant administrators, etc. already in place to handle their projects.

Comment: In practicality, we do not believe counties are best equipped to distribute this funding. We certainly understand that counties seem like a logical choice, and, on paper, this is certainly the best idea. However, we are deeply concerned that politics will be prioritized over actual need.

Comment: The Board of Commissioners for the Copper Basin Utility District think all funds intended for water infrastructure should be allocated directly to the owners/operators of the State's water and sewer utilities.

Comment: With the County Mayor and the County Commissioners in charge of these funds, I am concerned they may not be distributed equally which would cause some municipalities to fall short on repairing some projects that need attention. If the funds distribution stays as is, who will oversee they County Mayor and County Commissioners to ensure the funds are distributed fairly. Please consider sending the funds to each municipality.

Comment: GOOD MORNING, I HAVE 2 STATEMENTS, ONCE THE MONEY COMES TO THE COUNTY GOVERNMENT WHO IS GOING TO OVERSEE THAT THE SYSTEMS ARE NOT FORGOTTON. AND WHO IS WATCHING AT THIS LEVEL??? THIS ONE TIME INVESTMENT IS VERY HELPFUL TO SMALL SYSTEMS WITH SMALL CUSTOMER BASE !! THANKS FOR WHAT YA'LL DO.

Comment: Our biggest concern is in regards to the disbursement of funds from the state to the counties. The counties are not equipped well enough to provide these services. We think it would be better to develop a plan and send the funds directly to the individual municipalities and water systems. It seems like you are adding an extra step to the process and, in turn, increasing the administrative costs for handling and monitoring these funds. In Rutherford County, we are not sure how they will determine who will receive funds and how much funding each entity might receive. We have spoken to the county and they do not have the staffing in place to distribute and monitor these funds. They do not want this responsibility. The County wants the funds to go directly to the individual entities.

Comment: The distribution of program dollars should utilize a diversified approach, rather than a simple distribution via county governments. Not all towns, cities and county governments own a utility that offers water, wastewater, or stormwater services. As currently proposed, a county government may not wish to be in a distribution and accountability role far program funds for a few legitimate reasons. The proposed method of distribution should be altered in recognition of such sentiments and an alternate method of delivering the funds to the ultimate recipients should be identified. For example, one alternative method of distribution to consider is the direct distribution to the utilities that provide the covered services. This is a method favored by many towns and cities.

Comment: County Government DOES NOT have the extra staff or time to administrate, plan, and manage water projects for TDEC or local municipalities. This plan would leave TDEC interacting with 95 counties. To TDEC's credit it is very beneficial to them to place all of the responsibilities on county Government. It is much easier to deal with the 95 counties instead of the hundreds of water utilities in the state. What doesn't make sense is why TDEC feels that they need to throw county government in the middle to try and make their jobs easier. County Government is not and never will be a good replacement for TDEC to manage this plan. Instead of TDEC setting up a program, guidelines, mandates for the county to follow, would it not be easier and much more efficient for TDEC to just do it themselves? TDEC is the regulating agency, county government is not. It would make much more sense that TDEC manage this plan directly with municipalities, TDEC knows what is expected and can deal directly with the municipalities that will receive the money from ARP.

Comment: Disbursement of funds to Counties for the purpose of acting as the pass-through agencies may appear as logical approach. We understand this theory of disbursement will provide communities the authority to choose and set their own priorities to disperse monies where most needed. However, in reality, County agencies may bog down this process with political pressures from various agencies and individuals potentially preventing monies from being used on the most needed projects. Many Counties have various groups and opinions that could easily influence the decision ma king process over how monies will be distributed. Below are a few examples of hindrances described in greater detail.

1. Numerous Counties have multiple Utility Systems operating within a given County's jurisdiction. It would be a logical assumption for most Counties to favor Utility Districts over the Municipalities since most Counties appoint Utility District Boards and are acting as extension of County services.

2. Will the County Mayors have final authority to distribute funds or will County Commission have the final decision? County Commissions deliberating and voting could take additional time to develop an agreed upon process. Hashing out numerous opinions and ideas as to how the monies should be distributed with no prior experience in water and wastewater could be a laborious process versus one person following a process provided by TDEC.

3. Counties will not have the technical expertise to determine how projects should be prioritized. All Utilities will provide technical information and reasoning as to why their project is deserving. Furthermore, all Utilities will obviously be requesting funds that exceed the ARP funding provided to each County. How will Counties deliberate through this technical process acting as mediators as to how limited monies should be disbursed? This will be a new process for Counties to manage. Do Counties have the staff to take on this process? These examples could easily derail the intended process of picking the most deserving projects based upon the criteria as described in the Draft Water infrastructure investment Plan. ln lieu of disbursing funding directly to counties that will be responsible for further disbursement to municipalities, utility districts, and authorities within their boundaries, we suggest each county receive $2,105,263 in funding to be used by the county or disbursed as described in the subject document. We suggest the remaining monies be disbursed directly to applying utilities in a population served-based manner.

Comment: The City of Baxter wastewater collection system is in need of immediate rehabilitation to address I/I entering our sewer system. The City has expended significant monies and efforts to identify a strategic plan to apply infrastructure funding to our community. We have completed a Sewer System Evaluation Survey (SSES) of our entire sewer system which included smoke testing of the entire collection system and a detailed inspection of every gravity sewer manhole in our system. We have completed or are currently under contract to complete CCTV of our entire collection system. Our wastewater treatment plant is also in need of renovation due to age and capacity considerations. The county has expressed an interest in investing ARP funding toward waterline extensions in the County while our current highest priorities have been established toward our wastewater collection system and our wastewater treatment plant. We will not be forced to take on projects that will not meet the needs of our community and identified by our scorecard and TDEC as our highest priority projects. These funds are a one-time opportunity for our communities to advance our infrastructure needs in areas identified as greatest need by our community.

Comment: It is our belief that the current plan of distribution is flawed in the need for county approval and will only result in the disparagement of our community for their desired expansion of water lines to county residents. The involvement of the county to control the funding and only support projects as they see fit will force our community to not be eligible to address our priority projects. We will not be forced to take on projects that will not meet the needs of our community and identified by our SRF scorecard and TDEC as high priority projects. The funding will go unused by our community if not used to repair and build sustainability of our identified failing systems. Expansion will not serve any purpose except to further put the utilities in need for increased burden on long term sustainability. These funds are a one-time chance for our communities to greatly advance our infrastructure sustainability in areas identified as greatest need by our community.

Comment: Distribution of these funds to all the counties across Tennessee to be re-distributed internally will present a major administrative challenge both at the state level and the county level. The amount of administrative energy and money to manage the 95 counties and the contractual effort to maintain accountability will result in wasted time and money unless it is directed toward fewer recipients that already have a plan, or organization, with a history of corporative agreements within the counties.

The distribution of water resources funding at the county level does not match in many cases the geographic footprint the areas where the need is. The county boundaries in most cases do not represent a physical relationship to the surface stream drainage boundaries when considering point source and stormwater impacts.

In general, Towns and Cities are contained within a single county but there are many cases where development and population crosses county boundaries based on market driven considerations requiring a different organization of government to manage the issues.

The same issues apply for the management of groundwater resources which crosses boundaries.

Memphis recommends that the distribution of $200,000,000 to all counties be revised.

Comment: The City of Tennessee Ridge (COTR) respectfully request TDEC to reconsider allowing counties to be the primary subrecipient for the State's ARP funds for water and wastewater systems.

COTR does not believe counties are equipped to serve as the primary subrecipient for several reasons. A county can decide not to accept the funds, depriving water, and wastewater systems the use of State ARP funds for non-competitive grants. State ARP funds may be administered unfairly among utility systems when there are more than one utility systems within a county. A county board has complete power and control over funds being distributed to utility systems which may cause competition among systems. County governments do not have utility systems, therefore there is no knowledge of what portions of rural areas need access to safe drinking water or the needs of utility systems. A county does not have personnel or resources to administer the State ARP funds for water and wastewater systems. A county may want to develop an area for its own purpose rather than areas that need upgrades or access to safe drinking water.

Comment: This is a manpower and time issue. I understand that putting all of the liability and responsibility on county government makes sense for TDEC, but it does not in any way make sense for county government. Accepting the responsibility that this plan proposes would be a disaster for county government. If TDEC wants to create a plan to work with municipalities to improve and repair their infrastructure, then they need to do that. Acting like including county government is some kind of miracle gift of kindness bestowed upon county government is ludicrous. Having meetings, coordination, identifying projects, and any additional mandates or guidelines will require dedicated personnel and time that county government simply does not have. Without additional funding to county governments this plan is destined to fall short of its goals.

Comment: By making Tennessee counties the subrecipients of State ARP funds for water and wastewater infrastructure projects, the Draft Plan may significantly delay the beginning of the construction of these projects. The Draft Plan provides that counties will have their first opportunity to submit their non-competitive grant letters of acceptance and project proposals beginning January of 2022. TDEC indicates that its template and manual for the non-competitive grant program will not be released until early January. While water and sewer utilities have already been communicating with county mayors and other county officials about ARP funding for infrastructure projects, each county proposal will have to be approved by the county commission. Each county has its own process and procedures for action by the county commission. Oftentimes, this process requires referrals to committees. Many county commissions only meet once a month.

TAUD encourages TDEC to include some kind of deadline by which a county's non-competitive grant letter of acceptance and project proposals must be approved by the county commission. If such deadline is not met, water and sewer utilities in these counties should be able to request TDEC to administer the non-competitive grant program in these counties.

Comment: Shelby County is a large county including numerous utilities with competing needs. Allocation and coordination would be tedious at the least. A list of most of the Shelby County utilities in the water, wastewater and stormwater sectors are: Memphis Light, Gas and Water (Water), City of Memphis Public Works Division (Wastewater and Stormwater), Shelby County Engineering Office (Stormwater), City of Germantown Public Works (Water, Wastewater and Stormwater), Town of Collierville Public Services (Water, Wastewater and Stormwater), City of Bartlett Public Works (Water, Wastewater and Stormwater), City of Millington Public Works (Water, Wastewater and Stormwater), Town of Arlington Public Works (Wastewater and Stormwater), City of Lakeland Public Works (Wastewater and Stormwater). County governments may have neither the resources nor existing relationships needed to fully coordinate with water, wastewater, and stormwater utilities. This could impact the critical timeframe for completion of expenditures by December 31, 2026. Many county governments have not routinely been involved with the operations, maintenance or infrastructure needs of the various water, wastewater, and stormwater utilities within their territory. County and City governments are busy using stimulus funds they received for priorities related to the pandemic, local economics for small businesses, local infrastructure issues, cybersecurity issues, etc.

Comment: One of the city's concerns is that the "non-competitive" nature of the water infrastructure grants will create a scenario that could cause missed opportunities and support projects that are less beneficial for the utilities. This stems from a combination of factors including the open-ended designation for who may access the funds, the volume of funding being discussed, and the relatively short window in which funding must be spent.

Looking at page 17 of the plan, under Disbursement of Funds, TDEC recognizes a weakness in asking for alternative solutions during public comment. This is immediately followed up by a comment regarding intended similarities to the selection and administration of CDBG projects. While it is true that county governments do serve as a primary recipient in cases where small independent utility boards are seeking CDBG funding, this completely ignores larger municipal utility systems that often administer these grants on their own.

More importantly, even in county administered CDBG projects the scope is much smaller, far more limited, and more scrutinized due to the competitive nature. These projects are so limited that when counties do secure them, many times they struggle to get them completed. There have been water infrastructure projects at the county level that have taken decades to complete. As an example, this was the case of the Shady Valley water line extension in nearby Johnson County. These types of projects almost always need outside help to administer due to the weak, decentralized structure of county government in Tennessee, which typically doesn't have the strong network of management and finance staff found in municipal settings.

Administration of grants usually falls on lay personnel, including the county mayors, their small group of staff typically consisting of administrative assistants, and possibly some finance staff. Many of these projects are very technical in nature, complex in their requirements, and often have a wide group of stakeholders including the services of professional engineers in coordination with utility staff. County officials many times depend on assistance from organizations like the development districts.

Reinforcement of the incompatibility of county governments to effectively administer the non-competitive grant funds is found throughout the details of the proposed plan. On page 19 the plan acknowledges the often-weaker position of county governments when it comes to differences in the Ability-to-Pay Index. Other discrepancies are alluded to in the section addressing minim sub-recipient requirements, but the draft plan is lacking many solid details, often referring to the need for collaboration but avoiding explanation. The plan refers to a program manual that is being drafted and explains the need for letters of support to the county from each utility. However, it doesn't detail exactly what that support looks like or a mechanism for dissent. Many of these concerns may be alleviated once the supplementary documentation is revealed. Without enforcement measures in place to ensure that county governments are addressing projects in a fair and effective way, the ultimate outcomes may still be less than optimal.

The last major concern with the plan as presented is the time frame. TDEC recognizes on page 21, that completion of projects by 2026 could be a difficult target, depending on the level of planning and engineering involved. However, this does not take into consideration the increased volumes of projects all needing to be underway and completed on the same timeline. With supply chains already under stress and limited resources with engineers, contractors, and other stakeholders, please recognize the potential bottlenecks in getting projects underway and have contingencies in place for extensions of time, if possible.

Recommendation: MLGW suggest that providing funding directly to water, wastewater, and stormwater utilities sub-recipients would be more efficient than routing funding through the county.

Recommendation: If possible the county would prefer to accomplish the TDEC-ARP projects by utilizing an Interlocal Agreement arrangement method with the various utility districts as opposed to the county undertaking the projects directly and then transferring ownership of the completed projects to the respective utility districts. By using Interlocal Agreements to accomplish the projects the respective utility districts would be responsible for engineering and constructing the projects, and they would be also be responsible for providing the required 20% match funding. The contractual agreement between the county and the utility districts would require the utility districts to comply with applicable purchasing and bidding procedures and the utility district would submit progress billings to the county in the same way a contractor would as the projects are being accomplished.

Recommendation: It would make more sense to deal directly with the utility divisions also know what their needs and problems are. It appears that TDEC wants to put the counties in the middle to manage and be accountable (liable) for the funds. This is unnecessary and makes no sense. Dealing directly with the water infrastructure stakeholders would streamline this process and hold the stakeholders responsible for their funding.

Recommendation: TDEC needs to develop a recommendation of how counties are to work together on administering the non-competitive grant program for water and sewer utilities which operate in two or more counties. Some water and sewer utilities, especially utility districts, operate in more than one county. When an infrastructure project will be located in or will provide benefits in more than one county, the Draft Plan seems to require these water and sewer utilities to work with each county and for the project to be included in the project proposals for each county to be submitted to TDEC. Requiring these multi-county utilities to work with two or three counties on infrastructure projects being financed with State ARP funds can only bog down the process with needless bureaucracy, especially when time seems to be of the essence in getting these State ARP funds obligated for water and wastewater projects. TAUD suggests TDEC look at the following alternatives for multi-county utilities for the non-competitive grant program.

TDEC should consider administering and distributing the State ARP funds for any multi-county utility that has a project which will be located in or which provides benefits in more than one county. This would relieve the multi-county utility of having to coordinate its eligible projects with two or more county mayors (or other county officials) and of having to obtain the approval of two or more county commissions of its projects. TDEC can certainly reallocate funds to counties where this will occur, so the counties are not responsible for multi-county projects.

This alternative makes a lot of sense when the multi-county utility is electing to use its own funds for the co-funding of its project, so no county ARP funds are involved.

Recommendation: It appears the only method for distribution of funds comes through the County Mayor's office. We believe an alternate method of distribution should be developed that allows water systems to apply for and receive grants directly from the State. By doing so it will remove one level of bureaucracy and should provide a more efficient and timely way of allocating funds. We recognize that some systems may not have the internal controls in place to meet the reporting requirements for this type of allocation, but those deficiencies should not exempt systems that are capable of managing the funds the ability to work directly with the State.

Recommendation: An alternative for consideration would include the distribution of grant funds to interested development districts. As local governments are participating members of each district and many of these districts are accustomed to promoting collaboration, employ staff with planning expertise and are familiar with federal compliance requirements, some municipalities - particularly those with limited staff and located in less densely populated areas of the state - have suggested this approach is appealing. However, the individual county allocations would necessarily need to be preserved to ensure equity.

Recommendation: Another alternative for consideration would involve a combination of recommendations to distribution. Under such a plan, the local jurisdictions and affected entities within each county could collectively determine their preferred method of distribution of the county allocation. As such, the parties may elect to have their allocation distributed directly to the county, as planned. ln another county, the parties may elect to have their allocation distributed directly to the eligible utilities. The parties in another county may elect to have their allocation distributed to a local development district.

Recommendation: A possibility for consideration would involve the state operating a State Revolving Loan Fund-type program, whereby the individual county allocations are preserved and each qualifying utility submits projects to the state for review and approval. Submitted projects would be required to meet the proposed conditions. Approved projects would be awarded grants from the utility operators' designated county allocation. Once a county's allocation had been exhausted, utility operators within that county would be precluded from submitted additional projects for considerations.

Recommendation: Distribute funds directly to the systems. This would eliminate the cost incurred by the counties and provide more funding for the specific projects.

Recommendation: Allocation of funds by county fails to take into account the distinction between rural and more urban communities and their needs. Consider distribution of funds similar to the ARA funding and treat entitlement communities the same as counties. The plan to require Counties to allocate resources between diverse communities and utility operations creates difficulties in prioritizing needs between smaller utility districts and other more urban utility providers. Consider continuing the allocation pattern established by the federal program and separate entitlement communities from County distribution.

• *What alternative approaches to distribution of funds will balance state and local government and other sub-recipient administrative and compliance burden?*

Comment: In August 2021, Tennessee's Financial Stimulus Accountability Group (FSAG) dedicated $1.35 billion of Tennessee's State Fiscal Recovery Funds to water, wastewater, and stormwater infrastructure projects and charged TDEC with administering programs to deploy these dollars. If the Tennessee Financial Stimulus Accountability Group charged TDEC with administering programs to deploy the $1.35 Billion Dollars of the Tennessee State Fiscal Recovery Funds, then why does this plan directly place the administration of these funds on county government. Based on the information in the TDEC plan and the fact that they have been charged with administering the funds then TDEC should do what they have been charged with. Passing the administration and liability on to county government does not give the appearance that they plan to administer what they have been charged to do.

Comment: According to the plan, TDEC will spend no more than 10% of the $1.35 Billion Dollars to administrate this plan. If TDEC predicts it will spend $135 Million Dollars to administer this plan, would it not make sense that county government, who will actually be administrating the money, also receive 10% of the funds that are going to municipalities in their county? Asking county government, who will pick up a large percent of the workload associated with this plan, to perform this service for free, like it is an honor, is ridiculous. If TDEC assumes they will need 10% of the $135 Billion to administrate their plan, it would only make sense that it would also cost county government 10% of the money coming to the municipalities to manage and administrate TDEC's Plan. It is not responsible or ethical to collect $135 Million Dollars to administrate a plan that you created, and then put a majority of the workload on county government and expect them to do it with no additional staff or funding. This kind of thinking does not work anywhere except TDEC. If county government created a plan to collect $135 Million Dollars and then tried to require, coerce, shame, or manipulate TDEC to do a majority of the work and take all of the responsibility, would TDEC or the State of Tennessee willingly participate in this plan?

Comment: 4. On page 18, the statement reads, "non-entitlement units who choose to accept funding from Treasury will have administrative and compliance responsibilities associated with those funds." Thank you for recognizing the increased burden, however, we are already doing those administrative tasks for our regular ARPA allocations anyway. I don't see any additional administrative responsibilities being a big issue for our small town.

Comment: We are also concerned about who will be making the decisions (who is in charge) of the money at the local level. No one has more oversight and scrutiny about the expending of funds than a county mayor, between the open meetings, county commissioners, press, and Comptroller audit we are constantly watched. Furthermore, no one has a better feel of what is needed in our communities. We request the money flow through the County Mayor's office with the mayors having a strong voice in who or what projects are funded. We believe that a good open line of communication between TDEC, or their designee, and the mayors in choosing projects is essential in maximizing the dividends of this investment.

Without any oversight on how the money is spent in our counties we are very reluctant to be the entity in charge of the paperwork process. In the Upper Cumberland our resources are pushed to the limit, so again without allowing input from county mayors we feel TDEC would need to develop an administrative fee system to offset the cost of counties processing and filing the paperwork.

Comment: Following the proposed reallocation, the sub-Metropolitan County/Municipalities would be based on a formula established by the local governments. Memphis and Shelby County have a joint Office of Planning and Development and already work together on wastewater and stormwater issues.

Moreover, the municipalities within Shelby County have MS4 permits which will be rewritten to be consistent with Memphis as the stormwater discharges to the local streams occur in watershed sub-basins that straddle corporate boundaries. The City and County are updating the Stormwater Planning and Design Manual, including a special emphasis on Low Impact Development and other Green Infrastructure Management Alternatives. The new TDEC MS4 regulations are calling for each permittee to prepare a stormwater management plan. Funding for the preparation of these required plans need to be available for those that are impacted in Memphis and Shelby County.

In Memphis and Shelby, the Stormwater Planning element underway is following the recommended guidelines that EPA has for the Integrated Wastewater and Stormwater Planning Program pass by Congress in the latest amendments to the Federal Clean Water Act.

Therefore, in Shelby County the distribution will be through a planning process sponsored by the Memphis and Shelby County Office of Planning and Development. Using this money, necessary intergovernmental agreements will be revisited to develop an initial distribution plan based on a planning effort for water resources in Shelby County. Instrumental in the plan will be the Mayor of the City of Memphis, City of Memphis Division of Public Works, Mayor of Shelby County, Shelby County Public Works Department, and the Mayors of the cities of Shelby County and their utility department as appropriate. allocation

As the projects are funded through the non-competitive allocation process, the execution of a contracting process consistent with governmental regulations would be implemented.

As proposed, the additional $37.8 Million dollars added to Memphis and Shelby County would help underserved citizens. The Draft plan should be revised to reflect this.

Comment: In its draft Plan, TDEC states that the majority of Tennessee's ARP water infrastructure funds—to be distributed through a non-competitive grant process—should be directed toward projects which will enhance community water infrastructure systems, rather than commercial or industrial operations. Draft Plan, 17. In order to implement this community-based approach, TDEC proposes allocating non-competitive funds through a county-based system which would determine a county's funding allocation based on a fixed amount plus consideration of the county's population. Id. at 18. This formula would result in more sparsely populated counties receiving a greater share of money per resident for water infrastructure projects than those counties with larger populations of residents. While we do not doubt that drinking water and wastewater infrastructure in many sparsely populated areas are in need of significant investment, we are concerned that the proposed approach fails to prioritize the ARP funds to areas where they are most urgently needed or where they will make the biggest impact.

Comment: Most counties are capable of acting as a pass through for the funds. However, in instances where a county refuses the funds due to the added responsibility, the Final Plan should include a method in which the funds can be administered directly to the utility districts. Also, consideration should be given to ensure that the funds are to be distributed fairly in counties that contain many districts. In lieu of the problems mentioned above, it may be better for all parties involved to come up with a method to distribute the funds directly by allowing the districts in each county to hire outside administration firms or form committees to develop a plan for the distribution of the funds.

Comment: Collierville recognizes the management of this program across the state's 95 counties is only multiplied if its administration is further segmented by municipalities. We further acknowledge that some local governments might be challenged with allocating or dedicating resources to oversee the administrative and compliance responsibilities dictated by the state and federal government. However, there are other local governments who not only have the resources to handle the administrative and compliance responsibilities, but these communities may also be better equipped to do so than the counties in which there are located.

Comment: It is our understanding that the use of the county as the primary recipient of ARP funding was meant to speed up the fund distribution. We are genuinely concerned that this method of distribution will only slow the process down and the counties will attempt to control the funding to our communities to use as they see fit. The county commission may seek to further projects above the needs of our community leaving us without a voice in the process. We are concerned that the County would not support any project outside of their goals.

Comment: TDEC will receive no more that 10%, up to 10%, of $1.35 Billion dollars to administrate the American Rescue Plan Funding. This calculates to TDEC receiving up to $135 Million dollars to administrate the ARP funding. However, TDEC wants the local county governments to administrate the ARP Water Infrastructure Investment Program with existing personnel and resources. This outrageous number would make more sense if they passed some of the $135 Million dollars that TDEC anticipates spending down to county government since this plan requires local government to ad minister the funds. This plan would make more sense if the $135 Million dollars that TDEC is going to make"administrating" these funds were paid to county government since they are required, in the plan, to administrate the funds.

Comment: Municipal systems routinely receive and administer large State and Federal grants, and have the trained staff to effectively and efficiently manage multiple large projects simultaneously. Counties do not operate water and wastewater systems and thus have no base of understanding in how to manage grants and comply with regulations pertaining to water and wastewater.

Comment: The City of Lebanon does not agree that Wilson County should control the distribution of funds. Wilson County has no engineering staff and no water/sewer facilities under their direct control. The City of Lebanon requests that 42.7% of the funds go directly to the City of Lebanon, as the City provides water and sewer services via water infrastructure (water, wastewater, stormwater) to that percentage of the county-wide population (citizens within the city limits and citizens in the county). The City of Lebanon anticipates spending the funds on development of a new regional wastewater treatment facility to continue to serve customers in the city, the county and to meet the needs of new industrial partners in the region, development of food waste to energy project to conserve landfill space, as well as the continued growth in the city and county as a bedroom community to the City of Nashville. The cities current wastewater facility is at the end of its useful life and development of the new facility has begun. The timing is perfect for the city to direct the funds to the design of the new regional wastewater treatment plant and the city is well positioned with a technical team to use the funds in a timely manner to meet the deployment expectations of the federal government.

Comment: The biggest problem with this plan is that it does not take into consideration that county-wide goals and priorities are not the same as municipalities goals. Serving and meeting the needs for every citizen in a county is different from serving and meeting the needs of only people inside your municipality. All county governments have unique goals and priorities that they work on daily. Local Municipalities also have their unique goals and priorities. These goals are not the same. I agree that water infrastructure is important, and I agree that those municipalities need help updating and repairing their infrastructure problems. I also agree that the state allocated funds need to go to the municipalities to help them with these repairs and upgrades. What I don't agree with is TDEC's assumption that county government has the time and resources to manage and administrate your plan. McNairy County's priority is to make sure that our citizens have emergency and hospital care available to them in McNairy County. Since the release of the American Rescue Plan and the U.S. Treasury guidelines, McNairy County has been planning to make this happen with the American Rescue Act Funds. I feel that emergency and hospital care for are citizens is more important than managing and funding water projects at this time in McNairy County. The projects are already funded through the ARP, TDEC should be proud that they are able to fund these projects. The money TDEC is provided to municipalities will go a long way to helping these municipalities.

Comment: I am writing this letter regarding the projected ARP Funds that are about to be awarded to each county. I am concerned they may not be distributed equally and if this happens, the smaller municipalities will not be able to fund needed repairs to their water and wastewater infrastructure. Will there be any type of accountability to ensure the funds are distributed fairly to all municipalities?

Recommendation: There is only one approach that makes sense for the distribution of funds that will ensure balance and compliance. That approach is deal directly with the municipalities and hold them accountable. Including a third party into the mix and trying to hold them responsible makes absolutely no sense and is a horrible plan.

Recommendation: Eliminate the use of a sub-recipient (county government) since they most likely do not have personnel to administer the program. With a massive program like this throughout Tennessee and the United States, it might make sense to establish a robust nationwide electronic compliance certification program with a random selection auditing process. Workforce will be very limited for compliance and the program should take advantage of technology for compliance.

Recommendation: When a county does not have the personnel, resources, or expertise to administer the non-competitive grant program or simply does not want to do so, the Final Plan should authorize the counties to hire qualified agencies or firms to administer the non-competitive grant program on behalf of the county.

TAUD recognizes that TDEC may not have the resources to handle the administration, distribution, and compliance requirements of the non-competitive grant program for every county in Tennessee which may prefer not to be a sub-recipient of the State's ARP funds. As an alternative, TAUD suggests the Final Plan allow counties to hire qualified agencies or firms to administer the non-competitive grant program on behalf of the county. Under Treasury's Interim Final Rule, reasonable administrative costs are allowable expenditures under this grant program which can be used to pay such an agency or firm.

Any agency or firm hired by a county to administer the non-competitive grant program must be qualified. The agency or firm should have some or all of the following: knowledge of the operation of water and wastewater systems; experience in working with utilities; the capability of assisting the county with the administration of grant funds; or experience in meeting reporting requirements for federal or state loans or grants. Neither the agency nor its employees should have a financial interest in any of the water or wastewater projects in the county to be financed by ARP funds.

To ensure only qualified agencies or firms are hired, the Final Plan should require TDEC approval of the agency or firm selected as a condition for the county to receive and administer the State ARP funds for the non-competitive grant program. If a county's procurement policy requires that a contract for grant administration be competitively bid or obtained through a request for proposals process, then the procurement policy would have to be followed to hire the qualified agency or firm.

Recommendation: The funding could be structured to allow the Development Districts to be the primary subrecipient. This would decrease the amount of TDEC's subrecipients to nine. However, this raises the question to the districts' ability and staff time to perform monitoring on this scale.

Another method is for TDEC to use 10% of funding towards the administration of the program. A consultant could be retained on the state level, similar to what Finance and Administration did with the TN Cares Act, to monitor the subrecipients for this grant program.

To summarize, a good question to ask is: what operational need is satisfied when you use Tennessee counties as the primary subrecipient for this funding? We believe the state cannot answer this without shedding light on its own relief of burden. The point of this funding is to provide much needed aid to the state's water/sewer infrastructure. When the state chooses a path of least resistance, the benefit of such funding is hindered and delayed potentially to a significant degree.

Recommendation: Perhaps consideration can be given to allowing local governments the option to receive funding directly from the state or receive funding from their respective county. Those with direct state funding would be solely responsible for submitting their compliance and reporting documents directly to the governing body as directed.

Recommendation: We agree with the effort to ensure that this funding is dispersed across the state and not concentrated in larger urban or even growing suburban areas such as Brentwood. Therefore, we would suggest a distribution system based primarily on proportionate direct allocations to utility systems based on # of customers served, which should be a readily available statistic from municipal and utility district audits submitted to the state.

In addition, a portion of each county's proposed funding could be distributed directly by the state in a somewhat competitive fashion with systems within each county submitting proposed projects that conform with the project priorities established by the state's plan. This may add to the administrative obligations of the state, but those costs could be offset by the state keeping a relatively small additional share of the overall available funds. This would ensure that funds are still distributed proportionately across all counties while eliminating the county-level political disputes and likely improving the speed at which funds would be awarded and spent.

Recommendation: Direct disbursement to entities implementing the projects will increase Johnson City efficiencies and expedite drawdown of the funds. Any additional administrative expense the State might incur due to this change will be offset by a reduction in counties' administrative fees that will likely be charged.

Recommendation: Funding directly to municipal systems will ensure all or part of the funding will be spent on compliance, water loss reduction, and asset management planning, all of which are critical to the continued safe operation of such systems. These are activities that don't receive a lot of attention and are easily forgotten by those who don't operate systems.

Recommendation: Allow for potential sub-recipients within a county to administer funds if they are willing to take that burden on such as municipal and public utilities.

Recommendation: There is only one approach that makes sense for the distribution of funds that will ensure balance and compliance. That approach is deal directly with the municipalities and hold them accountable. including a third party into the mix and trying to hold them responsible makes absolutely no sense and is a horrible plan.

Recommendation: Go directly to existing utilities/organizations. The proposal to use counties as "pass through" units will eventually result in individual needs being identified with the county government only siphoning off funds and providing additional bureaucracy.

Recommendation: Distribute funds to the municipalities that have utilities providers that act on their behalf. Cities and towns are accustomed to applying for grant assistance on behalf of their utility with the understanding that it is the responsibility of the utility to be responsible for all compliance and grant requirements. In this instance, the town or city serves as a pass through for the grant funds. The majority of the utilities procure the services of professionals to assist with the engineering and administrative, management and compliance requirements.

Recommendation: An alternative approach is for Cities with utility systems to be direct sub-recipients of the State. The County would then receive the funding for the utility districts within their political boundaries - the same districts for which they are responsible for appointing board members to serve. This would then eliminate the issues that may be caused between Cities and Counties.

Recommendation: The plan for distributing funds to the counties for water and sewer projects seems unnecessarily complicated. I suggest funds be sent directly to water and wastewater systems. TDEC knows how many customers each system serves. Why not provide funds simply based on population served - whether it's water, wastewater, or stormwater? This also relieves counties from the issue of handling distribution.

Recommendation: The Department of Economic and Community Development has a process in place in working with cities, towns, and counties. Perhaps this process could be streamlined in some manner to achieve the distribution and compliance requirements.

Recommendation: Given that all municipalities are already having to implement appropriate administrative and compliance reporting systems for their direct ARP allocations, having to do so for these state allocations as a sub-recipient should not be that much greater of a burden.

Recommendation: TDEC should modify its non-competitive grant allocation formula to ensure that ARP monies are directed to communities based on demonstrated community need and/or project impact rather than population in order to ensure that non-competitive grant funds are distributed in a non-discriminatory manner across the state. Counties would identify their priority projects based in part on their completion of Tennessee's Infrastructure Scorecard, a tool developed by the State to aid communities in evaluating the current environmental, operational, and financial health of their water, wastewater, and stormwater systems.

TDEC's approach thus appears to endorse the idea of "give now and ask questions later." This proposed two-step process would result in the distribution of community funding prior to the community's holistic evaluation of their own current water infrastructure system or TDEC's understanding of the spectrum of needs across the state. And as discussed, this model would result in proportionally more funds being allocated to sparsely populated counties regardless of their actual water infrastructure needs, and could cause disadvantaged communities and protected classes of citizens to have their water infrastructure priorities remain unmet without adequate justification. TDEC thus risks inefficiently allocating the vast majority of its water infrastructure resources so that high-priority community projects go unfunded.

TDEC should reverse this process and first prioritize assisting communities in their evaluation of their current water infrastructure systems and selection of water infrastructure priority projects. TDEC should then comprehensively evaluate this information and engage with community stakeholders to understand community project priorities before allocating non-competitive grant funding to communities through a need- and/or impact-based approach. This will allow the State to efficiently utilize ARP water infrastructure resources and ensure that the most pressing water needs of communities are addressed.

Recommendation: l believe that TDEC should develop an initial allocation to all utilities based on a rational formula based on some combination of number of customers, gallons of water produced and miles of water and or sewer lines. Utilities could submit applications to TDEC for projects meeting federal guidelines for all or part of the amount of the initial allocation. Any unused funding could be reallocated to approved projects. l realize this would place an additional burden on TDEC; however, it would eliminate any question relating to fairness and equity in the process.

Recommendation: The total funds available in each county would remain the same. However, in lieu of disbursing funding directly to counties that will then be responsible for further funding all of the various utility districts and municipalities that operate a water or wastewater system within a county, we suggest funding the water and wastewater utility directly based on the population served by existing water infrastructure and existing wastewater infrastructure within the county boundaries.

Recommendation: Provide avenue for local utility companies to become primary sub-recipient of these funds should the county associated with the utility not desire to participate in the funding program given the potential administrative, compliance or fund matching requirements of the plan. Municipal utilities may be better suited than some counties to administrate, comply and fund match in accordance with the final requirements of the plan.

Recommendation: Give the County Commission in each county some say so on the projects to divide them equally across the county, with areas having no access to public water getting priority over other projects.

Recommendation: In some of the more rural and smaller Counties, in such cases as personnel, experience, technical expertise to meet any compliance or regulatory requirements are limited, I would suggest or propose TDEC consider provisions for allowing Counties to engage competent and qualified Firms/Groups/Agencies to assist in any compliance similar to the typical Development Districts role of Administration in CDBGs, or allowing competent Engineering and/or technical Groups to assist in any Administrative or Compliance burden.

Recommendation: If a case arises where the County is either unwilling or unable to distribute funds as a pass-through to Water Systems, I would propose some alternative to sub-recipients/Utilities that permits bypassing an unwilling County recipient or an unwilling or obstructive County Commission that will not support local Utilities as sub-recipients or shows overt favoritism to one Utility over another in a County.

Recommendation: Many municipalities are equipped to handle the funding and do not need the county government to manage the funds. If the funding includes project management as an eligible expense, TDEC should require the municipalities to have a staff member that is well versed in managing funding or a third-party contractor.

- *What allocation approach makes sense and what specific suggestions for alternative arrangements are feasible?*

Comment: Please reconsider your direct allocations because it takes a lot more money to cover a mile than a city block, so smaller rural areas need more money even though they have smaller populations.

Comment: Regarding allocation, our position is that the state's current population-based approach for state shared revenue is a proven method that can be utilized for distribution of ARP funds as well. This methodology is familiar, understood, and calculable and would allow recipients to select eligible projects that align with the communities needs and available resources. The only potential concern with this approach is not having received official 2020 census counts and having to determine the appropriate population numbers to use in calculating grant amounts.

Comment: We acknowledge the proration of ARP funds through the proposed Formula-Based Non--Competitive Grants phase is based primarily on population data. However, this approach utilizes only permanent population information from the 2020 census, which for Sevier County was 99,244 persons. The approach does not recognize the impact of tourism, which increases the effective water service population of a community. In Sevier County this is especially significant, since in addition to being the third fastest growing county in the State, we are also experiencing robust visitation from non-residents, such that visitor spending now ranks third of the 95 counties in the State. This level of visitation places a burden on many local government services, including potable water supply, treatment, and distribution. In fact, the seasonal effect of tourism in Sevier County creates a peaking factor for water demand which increases pumping and treatment costs not seen in other communities.

Comment: First, we would like to discuss how the money is being divided. Right now, the proposed money split is 20% being divided equally among counties and 80% being divided by population. In the majority of the situations (ex. public safety or schools) splitting largely based on population makes total sense. With larger populations comes the need for more schools, ambulances, fire trucks and law enforcement officers; but with water and sewer this formula is actually backwards. In a higher populated area, one mile of waterline will serve hundreds of times more people than in a rural lower populated area. Thus, the cost per person served is significantly higher in less populated areas. We suggest a change in the formula used to disperse the funds. Instead of the current 20% and 80% being purposed as described above, we recommend a fifty-fifty split with 50% of the 1.35 billion being divided between the counties evenly and the other 50% being divided by population. This would guarantee each county a base allotment of $5,263,157.00. In our rural area, as well as others across the state, this new allotment formula would change the future of our counties for the better.

Comment: The proposed per capita funding for Shelby County which includes Memphis is the lowest in the State of Tennessee at $118. This needs to be rectified to a more equitable distribution. Moreover, the requirement in the Draft plan of a 20% contribution of the funds being passed through the State of Tennessee should not have a matching requirement consistent with US Treasury interim rules. See the following FAQs, specifically 4.10 and 7.14, from the U.S. Treasury's' publication.

Comment: As a voice for small, rural, and distressed water systems, I am thankful this funding will be available, and commend the State for its commitment to provide safe and clean water to communities. Regardless of how the final allocation is decided, this funding will assist many communities and public water systems in strengthening their position with respect to water infrastructure.

Comment: The City of Lebanon requests TDEC to allocate 42.7% of the funds for the county to the City of Lebanon and approval of the project to come directly from TDEC staff or their contract engineering team, supporting the deployment of the ARP funds to expedite the city's project design to meet the expectations of our customers and the deployment schedule for the funds being spent by December 31, 2026.

Comment: Small towns have water and sewer lines that are spread out over a wide area, but with fewer people to fund water and sewer projects. This means the cost per capita for water and sewer projects is substantively higher for small towns than for larger cities. I'm not sure the exact formula for calculating the awards for small towns, but please consider that small towns have a substantively higher per capita cost for water and sewer projects. Perhaps the formula could be adjusted to address this issue.

Comment: First I would like to express my appreciation for the tremendous generosity in regard to the Tennessee Department of Environment and Conservation water infrastructure investment plan.

However, in a higher populated area, one mile of waterline will serve a more significant amount of citizens than in a rural lower populated area. Thus, the cost per person served is significantly higher in less populated areas. I would like to request a change in the formula used to disperse the funds. Instead of the current 20% and 80% being proposed as described above, I recommend a fifty-fifty split with 50% of the 1 billion being divided between the counties equally and the remaining 50% being divided by population. This would guarantee each county a base allotment of $5,263,157.

Comment: On the funding formula for the counties, the 2020 population estimate numbers are used. However, the US Census published Decennial Census numbers in August that are considered more accurate numbers and more accepted numbers. The population estimates currently being used by TDEC have been taken down from the Census website.

Some communities have asked if they move forward with an infrastructure project out of their allocation of ARP funds now, could it count later as match for the TDEC ARC funds?

The TDEC funding may be a once in a lifetime opportunity to assist with utility needs. However, I have some concerns with the match being 20% for counties such as Hancock.

Comment: We believe this question is assumed to be focused on the total allocations of the noncompetitive grants to each county. We don't have an issue with how the state produced the allocation percentages. However, we want to focus on the allocation provided *from* the county to its subrecipients. If TDEC follows through with making counties the primary subrecipients for this funding, a standard for allocation methods should be development **and required**. It is currently understood that the absence of a standard method is intended to facilitate adequate cooperation between the counties and their local utilities. However, if a local utility is run by a separate municipality or even crosses other jurisdictions, the potential for political machinations and maneuvering is increased. Allocation standards should be enforced to ensure counties are truly a "flow-thru" entity for this funding. Such standards could include number of customers served, gallons of water loss, number of water/sewer lines of a certain age, etc.

Comment: [This comment was received 38 separate times] I am concerned that the draft water infrastructure investment plan has a flawed formula for allocating funds. It does not follow the Justice40 Executive Order to ensure 40% of federal investment funds are allocated to disadvantaged communities. For example, Shelby County is allocated the least dollars per person and contains the highest percentage of Black residents. The base formula needs to be retooled. Thank you for your attention to this important opportunity to ensure aging infrastructure can be improved to protect the health of Tennesseans.

Comment: The numbers and the formula seem to be clearly biased against Memphis & Shelby County. The numbers also do not properly address justice and equity issues. Justice40 should be followed.

Comment: TDEC's proposed population-based formula would result in the arbitrary allocation of ARP funds regardless of a community's actual water infrastructure needs. TDEC notes that water infrastructure needs "vary across communities," id. at 17, yet its lopsided allocation model could easily cause some Tennessee counties to receive a disproportionately high amount of funds in comparison to their actual investment needs while other counties could struggle to fund even basic water services. For instance, the comparatively low per-resident investment model suggested by TDEC could leave Shelby County unable to address some of its most serious water infrastructure problems. Consider, for example, Shelby County's drinking water. Many Shelby County residents receive their drinking water from Memphis Light, Gas, and Water (MLGW). A 2019 outside audit of the utility found its drinking water infrastructure to be on the verge of collapse. Although some updates are currently being performed, these were delayed due to the pandemic and concerns about raising residents' water bills. A winter storm in early 2021 wreaked additional havoc on the system, leaving many Shelby County residents without access to clean water for an extended period of time. MLGW estimates that it will take hundreds of millions of dollars to update its water infrastructure, and even more funds could be needed by Shelby County to address unsafe levels of lead which have been identified in water sources at dozens of county schools.

TDEC cites no studies or data to demonstrate that its allocation approach would result in the distribution of funding largely proportional to a community's actual water infrastructure needs, and this skewed funding mechanism could result in unjustified disparate adverse impacts against Black Tennesseans or other protected classes by systematically allocating fewer non-competitive ARP funds to their communities in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. As recipients of federal benefits, states may not unequally distribute or administer those benefits in a way which would discriminate on the basis of race, color, or national origin. 28 C.F.R. § 42.104(b)(2). The protections afforded by Title VI apply to the distribution of benefits as well as to the distribution of burdens. The U.S. Department of Justice has emphasized that policies and practices which are neutral on their face but discriminatory in effect "must be eliminated unless they are shown to be necessary to the program's operation and there is no less discriminatory alternative." TDEC has not made such a showing in its draft Plan, and must therefore ensure that its allocation model to distribute ARP funds does not result in discrimination against protected classes by systematic underinvestment in their communities.

Comment: A group of leaders and environmental justice advocates in the Memphis area met to share concerns about the inequitable investment the current formula would produce and the ramifications for our Black communities. We intend to follow up and follow this process through to make it more just and fair.

I'm re-attaching the letter written by the team at the Southern Environmental Law Center which I believe fully captures many of our positions with citations, etc. However, I want to share the sentiment of several organizations and ours, MCAP, below. Please read the attached letter, especially the Title VI ramifications which are wholly apparent to me and many of our local groups. By using a formula that does not first require an assessment of the needs of a locality for improving their current infrastructure, as well as, seriously considering the Justice40 initiative, TDEC perpetuates a history of under-allocating resources to Black and lower-wealth yet higher need communities that have plagued us for over a century of government malpractices. The current formula gives counties with less need and likely fewer people a disproportionate amount of money relative to the communities with more people and higher needs. This February, we experienced the costs of dilapidating infrastructure with MLGW's need to send a boil water advisory (the first ever) to the community due to pipes bursting and working poorly. Funds should not be directed toward economic development and drawing more businesses in when our current infrastructure for the businesses and people already here is woefully inadequate.

Communities with people of color and with lower-wealth peoples suffer more from poor infrastructure and should be prioritized with every formula and allocation of resources. The current administration has made this commitment through the Justie40 initiative and the federal administrative bodies seem purposeful about having states take the lead in implementing these aims. TDEC can do this and should. We need to remove lead pipes, update the water infrastructure to endure continuous extreme weather incidents and make this state a healthier place for everyone to live. By doing so, businesses will want to come here but it is wrong to not give resources to people and places that need them now for some possible investment into the future.

I trust and we trust that you will be able to do a more fair job in the review of this process that meets the needs of our state and its most vulnerable citizens in an equitable way. This current system is unfair and is perpetuating harms that the Civil Rights Act and that our communities have fought against for so long.

Comment: In addition to not basing investment on need or impact, the proposed allocation approach also risks distributing funds in a discriminatory manner. As shown below, the latest census data confirms that Tennessee's Black population is primarily concentrated in the state's urban areas. identifying as Black or African American. Based on TDEC's population-based formula, Shelby County would receive approximately $118 in non-competitive grant funds per resident. Similarly, Davidson County, as the State's second-most populous county (694,176 residents), also has one of the highest minority populations across Tennessee with 27.4% of residents identifying as Black or African American. Through TDEC's proposed allocation model, Davidson County would receive approximately $119 in non-competitive grant funds per resident—less than a dollar difference from the amount which would be allocated to Shelby County. In contrast, Pickett County, Tennessee's least populous county (5,061 residents), where 98.2% of residents identify as white, would receive approximately $532 in non-competitive grant funds per resident. TDEC's proposed allocation model would therefore result in Pickett County receiving over $400 dollars more non-competitive water infrastructure money per resident than either Shelby or Davidson Counties. Given the distribution of minority populations and the racial demographics of the State, the proposed formula would result in some of the most densely-populated and racially-diverse Tennessee counties receiving the smallest per-citizen non-competitive grant amounts to address their water infrastructure needs. Without a need- or impact-based assessment, the state cannot reasonably justify the racially disparate impact of the proposed allocation formula.

Comment: The current way of funding is not fair to the Urban counties. I understand and agree that each county should receive the $2,105,263 as an equal Allocation as the rural utilities need enough money to do a reasonable sized project. There is no argument for this equal allocation; however by doing so you are disproportionally over allocating funding to the rural counties based on population and if you go to the column that shows the Amount Allocated per person the Urban counties are being severely underrepresented. The Urban counties have the higher populations and higher need to fix and repair the infrastructure as they are serving the larger populations yet the amount allocated per person is the smallest. If you take the average per person allocated to Urban areas you will see the average is $ 132 per person. The average dollars per person across all 95 counties is $206.8 per person which is the average of column 10 on Attachment B. Citizens living in Urban counties are receiving on average $74 less per person than a person living in a rural county which does not seem fair to me. If you leave the 2.105 million allocation per county alone, the State can then determine the average allocation per person at $ 206.8 and use that to multiply by the county population. This calculation will then provide you with an amount that fairly represents the money that needs to flow equally for all the citizens of Tennessee both rural and urban.

Comment: The distribution of ARP funds to the State of Tennessee represents an enormous investment of federal resources into the State in response to the public health emergency and corresponding economic impacts which have been wrought by the COVID-19 pandemic. In the interim final rule published by the Department of Treasury to assist in distribution of these funds, the Department notes that "although the pandemic's impacts have been widespread, both the public health and economic impacts of the pandemic have fallen most severely on communities and populations disadvantaged before it began." 86 Fed. Reg., 26,787 (May 17, 2021). These groups include low-income communities, people of color, and Tribal communities. Id. The Department states that the ARP funds "provide a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers," including by "addressing the systemic public health and economic challenges that may have contributed to more severe impacts of the pandemic among low-income communities and people of color." Id. at 26,787–88. TDEC's draft Plan acknowledges the federal government's intention to support hard-hit communities through the distribution of these ARP funds by specifying that the State is seeking to invest this money in a "responsible, strategic, and equitable manner."

The Treasury's focus on disadvantaged communities reflects a larger administration-wide push to ensure that substantial federal dollars are invested in communities who have suffered from long-term underinvestment of public resources, oftentimes while being disproportionately overburdened with environmental stressors and pollution. In early 2021, President Biden issued Executive Order 14,008, which directed his administration to publish guidance on how certain federal investments programs could be implemented so that forty percent of their benefits flowed to disadvantaged communities. 86 Fed. Reg. 7,619 (Feb. 1, 2021). Interim guidance to implement this directive—referred to as the Justice40 Initiative—was thereafter published which gave preliminary insight into how the federal government defines "disadvantaged communities. "12 Specifically, the guidance states:

Community – Agencies should define community as "either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions."

Disadvantaged – Agencies should consider appropriate data, indices, and screening tools to determine whether a specific community is disadvantaged based on a combination of variables that may include, but are not limited to, the following:

o Low income, high and/or persistent poverty

- o High unemployment and underemployment
- o Racial and ethnic residential segregation, particularly where the segregation stems from discrimination by government entities
- o Linguistic isolation
- o High housing cost burden and substandard housing
- o Distressed neighborhoods
- o High transportation cost burden and/or low transportation access
- o Disproportionate environmental stressor burden and high cumulative impacts
- o Limited water and sanitation access and affordability
- o Disproportionate impacts from climate change
- o High energy cost burden and low energy access
- o Jobs lost through the energy transition
- o Access to healthcare.

The federal guidance specifies that the Justice40 Initiative should apply to investments such as those undertaken through "critical clean water and waste infrastructure" programs, id. at 3, which seek to provide community benefits such as "increased access to safe drinking water and sanitary sewer services," "replacement of lead service lines," and "increase in the number of community water systems that meet applicable health-based standards." Id. at 6. The guidance also identifies the U.S. Environmental Protection Agency (EPA) as an agency which administers programs that would potentially be governed by the Justice40 Initiative. Id. at 13. Although the guidance applies specifically to the executive branch of the federal government, the administration n has been clear that it is seeking opportunities to ensure that federal funds are equitably distributed in ways that benefit disadvantaged communities. And EPA has stated that engagement with its state partners is "critical" to ensuring that disadvantaged communities receive benefits which flow through its covered programs.

In its draft Water Infrastructure Investment Plan, TDEC outlines several investment opportunities which it has identified as "achiev[ing] multiple federal, state and local agency priorities," and will therefore be prioritized as recipients of ARP resources. Draft Plan, 7. One such priority area is enhancing water and wastewater infrastructure service to small, underserved, or disadvantaged communities.14 Id. at 11. To identify which communities are included in this category, TDEC suggests following the definitions used in the Small, Underserved, and Disadvantaged Communities Program—a federal program administered by EPA to assist public water systems meet Safe Drinking Water Act requirements. Id.15 This program identifies disadvantaged communities based on their financial health according to

Tennessee's Ability to Pay Index, which is utilized by TDEC to administer the State Revolving Fund loan program. Therefore, TDEC would only consider a community "disadvantaged" for the purposes of receiving priority water and wastewater infrastructure ARP funds based on socio-economic factors.

Although the Department of Treasury's interim final rule makes clear that projects eligible for funding through ARP distributions include those projects administered under State Revolving Fund loan programs, 86 Fed. Reg. 26,802, TDEC is not limited to using that program's definition ns to direct ARP investments. In fact, "the interim final rule is intended to preserve flexibility for award recipients to direct funding to their own particular needs and priorities and would not preclude recipients from applying their own additional project eligibility criteria." Id. at 26,803. Therefore, TDEC is not constrained to identifying disadvantaged communities based on Tennessee's Ability to Pay Index. And unnecessarily limiting the definition of "disadvantaged communities" to the socio-economic inquiry in Tennessee's Ability to Pay Index would be at odds with the federal government's most up-to-date understanding of which communities should be considered disadvantaged for the purposes of receiving federal benefits through water infrastructure programs and goes against TDEC's stated goal of distributing funds in an equitable manner.

The federal government has made clear through executive action and agency guidance that environmental justice is a key priority when it comes to distributing community investment funds. In an effort to support disadvantaged and historically underserved communities, it has sought to clarify which communities should be considered disadvantaged so that federal funds can be intentionally directed towards projects which benefit them. Although socio-economic status is one factor which should be considered when evaluating whether a community is disadvantaged, so too should factors like race, pollution burden, and limited access to clean water. Interim Justice40 Guidance, 2–3. Further, water and wastewater infrastructure projects are specifically highlighted by the federal government as two project areas where the Justice40 Initiative should apply, and EPA is identified as an agency which administers programs potentially covered by the initiative. Id. at 3; 13. The American Rescue Plan is devised to provide ARP beneficiaries with latitude in how to distribute funds, and TDEC should revise its understanding of which communities should be considered disadvantaged to receive priority in ARP investment so that all relevant factors are considered.

TDEC should align its understanding of which Tennessee communities should be considered disadvantaged with the federal government's Justice40 Initiative so that the water and wastewater needs of all overburdened and underserved communities are identified and appropriately prioritized to receive this influx of ARP-provided federal funding. TDEC should also clarify that investing in the water infrastructure of disadvantaged communities is an

Recommendation: Allocation of funding for projects which will hurt community water systems. These include water line extensions to unserved areas. If an area is not yet served by a water system, it likely is too difficult and too expensive for a project to provide water to make sense. It is anticipated that County officials **WILL** direct water systems to provide service to areas like this, potentially wasting millions of dollars and driving depreciation costs up for these water systems.

Recommendation: Can the distribution of funds be made directly to the utilities involved?

Recommendation: Population or customers served by each type of utility.

MS4 based on population within the MS4 {County MS4 to exclude population of any city MS4s within their county}, water systems based on number of customers (delivery points), wastewater customers (delivery points).

Recommend this be done at the state level versus the county level.

Recommendation: We would like to suggest adjusting the 2020 census population levels by an appropriate factor to recognize the higher effective service population of each county to better reflect the true cost of water service. Such an approach would allow additional funds to flow to those tourism centric counties and as a result provide the State with a higher return on investment for the ARP dollars. Potential suggestions for metrics to consider in a formula to adjust this effective population might be lodging tax revenue, hotel room nights, restaurant sales, and/or sales tax revenue.

Recommendation: It appears the program has a formula for the amount to be allocated for each county. Allocation within the county should be based on miles of existing water mains plus miles of roads in unserved areas of the water utility's service area. This will allow allocation to build water infrastructure in unserved areas which did not have access to grant funds in the past due to low unemployment and high per capita income for the total county.

Recommendation: An alternative funding suggestion would be to apply a method similar to the one used by the TDEC at the county level but apply it at the utility level. "This methodological approach closely aligns with that taken by the U.S. Treasury. It provides funding for projects roughly commensurate with customers served/provided access to water, wastewater, and stormwater services." Rather than utilizing the county 2020 population, TDEC could use the population served by each utility system. The allocations would go directly to utility systems as opposed to the county. This would be consistent with TDEC expectations and county funding allocation (Page 18):

County Allocation = $2,105,263 + [$800,000,015 * (County Population /Tennessee Population)] = $2,105,263 + $45,000,000

- System A Allocation =
  $2,105,263 + [$45,000,000 * (Utility-Served Population /County Population)]
- System B Allocation =
  $2,105,263 + [$45,000,000 * (Utility-Served Population /County Population)]
- System C Allocation =
  $2,105,263 + [$45,000,000 * (Utility-Served Population /County Population)]

Recommendation: Another alternative could be to give each system a base allocation plus a portion based on the population served similar to the TDEC alternative county funding method with a base allocation to each county plus a portion based upon county population:

County Allocation = $2,105,263 + [$800,000,015 * (County Population /Tennessee Population)] = $2,105,263 + $45,000,000

- $30,000,000 of $45,000,000 is used as base allocation for a system and $15,000,000 is allocated based on the system served population
- System A Allocation =
  $15,000,000 + [$15,000,000 * (Utility-Served Population /County Population)]
- System B Allocation =
  $10,000,000 + [$15,000,000 * (Utility-Served Population /County Population)]
- System C Allocation =
  $5,000,000 + [$15,000,000 * (Utility-Served Population /County Population)]
- The county determines how to apply $2,105,263 after consultation with utility systems

Recommendation: A similar approach (distribution formula) could be established for counties to distribute funds to the towns, cities, utilities within its boundary. Or, if a county comes up with its distribution formula, then the formula/plan would need to be reviewed by TDEC for its reasonableness. This could be based on:

- number of water and sewer customers served within utility service area.
- Population within each of the incorporated areas, areas outside of incorporated within the county. Note that all utilities serve areas outside of their respective incorporated area.
- Infrastructure needs within each town or city (TDEC has included in the application process—coordination and input, the TAUD planning scorecard but this is after the fact where a county may have preceded in a manner that is in direct conflict with the final rules and requirements. In order to manage time more effectively, a process with more restrictive distribution requirements should be in place up at the onset.
- The economic impact of the funds within the county, town or city.

Recommendation: Consider applying a factor to the allocation of funds relative to each type of utility based on the needs of each type of utility across the state (or county, as applicable). /J the needs statewide (or county, as applicable) are 50% sanitary sewer, 30% water, 20%stormwater, then distribute funds based on those factors.

Within each utility type, prioritize green projects, similar to the SRF methodology.

Recommendation: Population allocations do make the most sense, but I would argue that funds should be directed and earmarked based on categories. If a county doesn't manage any stormwater infrastructure nor wastewater, then the money should be directed based on the load of responsibility for those categories.

Recommendation: Distribution of funds to individual water and wastewater systems should be based on 1) the type of system such as being a regionalized system with a smaller population of less than say 20,000 taking priority over larger municipalities / metro areas 2) number of customers served with smaller systems taking priority over larger systems 3) based on population

Recommendation: We would suggest that TDEC's rule divide the funds into a water apportionment and wastewater apportionment and then either 1) allocate the funds to the utilities based on their number of customers, or 2) adopt a need-based criteria scoring system that counties must follow when disseminating funds including a TDEC review and approval process before the funds are allocated to a particular project.

Recommendation: The Town of Atoka feels that the distribution of funds should be allocated directly to the cities and towns across Tennessee. If a direct allocation of funds is not viable, then we advocate for an assigned funding distribution amount, based on a fair and equitable funding formula, that is designated for each town and city based on population. By providing a ***defined*** allocation for each town and city, it would eliminate any disagreements between municipalities and county governments.

Recommendation: Give the County Commission in each county some say so on the projects to divide them equally across the county, with areas having no access to public water getting priority over other projects. If for some reason this is not feasible, work with each city and utility district directly.

Recommendation: I feel like a better plan would be to provide the funds directly to the governing body for each water utility or district. l know that this would require more work on the front end at the state level but would result in less confusion and have a value added effect by reducing the number of "hands" the funds would pass through.

Recommendation: As an alternative to distributing all the money to either the counties or separate utilities, a hybrid approach might be to distribute the base allocation directly to the counties to be used at their discretion for collaborative projects within their county, and distribute the population allocation to the utilities (based on customer count) within the County for their more immediate specific needs.

Recommendation: We strongly believe that allowing city-owned utilities, even those that operate in multiple counties, to receive direct funding should be considered. When the money is distributed to a county, they will decide which communities to disburse the funding to and this often brings political considerations into the funding. Communities like ours that lie in multiple counties may also get shortchanged by either or both county governments.

Recommendation: Funds should be sent directly to cities and utility districts based upon the number of customers served.

Recommendation: The plan appears to distribute money to the local county government, not directly to the utility. It would be better to distribute directly to the utility as the governmental entity. There is no need to include another layer of government. For example, the USDA RUS distributes funds directly to the utility.

Recommendation: In some counties, TDEC and not the county should administer and distribute the State ARP funds for water and wastewater system projects. TAUD believes that TDEC should administer and distribute State ARP funds for water and wastewater projects in a county in the following instances.

- A county has decided not to use any of its own ARP funds for water and wastewater projects and does not want to be the sub-recipient of State ARP funds. If a county is not going to use any of its own ARP funds for water and wastewater projects for utilities in its county, then it has little or no incentive to take on the responsibility of being the sub-recipient for State ARP funds for these same projects.

- A county declines to accept the State ARP funds or refuses to hire a third party to help it administer State ARP funds for eligible projects in its county. In the Draft Plan, State ARP funds which are declined by a county for the non-competitive grant program will be used for state strategic priorities and/or the competitive grant program. This provision penalizes water and wastewater systems in such a county by depriving them of the use of State ARP funds for non-competitive grants. If a county declines to accept the State ARP funds for non-competitive grants, TDEC should administer the non-competitive grants for the utilities in such counties.

- If TDEC determines that a county's proposal is inequitable or unfairly excludes one or more of the water or sewer utilities operating in the county upon its review of a county's proposal, then TDEC should administer the non-competitive grants for the utilities in such counties.

- TDEC may also consider using to qualified agency or firm to administer the non-competitive grant program on its behalf for a county in any of the above circumstances as well.

Recommendation: We believe directly funding municipalities, utility districts, and authorities will result in efficient use of funding for the ARP intended projects and will relieve counties of the heavy administrative and political burden of developing a plan to equitably distribute the funds in a way that meets the intended uses of the ARP funds. The additional administrative expense the State will incur due to this change will be offset by a reduction in county administrative fees that will likely have to be paid for using ARP funds.

Recommendation: It would be most beneficial to determine the funding allocation for the towns and cities prior to any distribution to the counties.

Recommendation: Base the allocation on problems/needs at the local level that can be solved with these funds, not just a partial fix without accomplishing anything other than saying we spent a large amount of money. TDEC is the state agency which is supposed to know what the needs are and is in the best position to evaluate the needs within each region of the state.

Recommendation: Formulas based on the number of taps and/or customers served makes sense. This could be the total water taps/customers added with the total sewer taps/customers.

Recommendation: We believe a portion of the funding designated for counties should be designated for direct funding of municipalities. Few counties directly own and operate potable water and/ or wastewater systems, a service more commonly provided to the hulk of our population by cities, towns, utility districts, and authorities. As a result, it is unlikely that counties will have immediate information about the most urgent needs of municipal systems, which may result in funding not being spent on the highest priority needs such as distribution system leakage and collection system inflow and infiltration reduction. Funding to counties adds another level of unnecessary process which will create additional administrative duties for the counties which can overload existing staff or require hiring of new employees.

Recommendation: The City of Spring Hill is one of a few cities in Tennessee that lies within two counties. We would appreciate a streamlined distribution and calculation process for the Formula-Based Non-Competitive Grants due to the simple fact that we will need to coordinate with both Williamson County and Maury County to receive pass-through funds. In order to achieve this, we would propose that the base/equal allocation in each county ($2,105,263) be equally distributed amongst the municipalities and utility districts. Add up all the entities and divide the $2.1M evenly between them. This would be in keeping with the state level distribution methodology, and appears to be fair and equitable.

We would additionally propose that the % of population allocation be split 50/50 between water and sewer systems within the county and distributed on a per capita basis. The total amount in Williamson for this allocation is $28,500,528. This would equate to $14,250,264 for water systems and $14,250,264 for sewer systems. On a per capita basis, $62.50 would be allocated per person to water and $62.50 per person would be allocated per to sewer. From here, a simple analysis would be performed to calculate the number of people served in each water district, and funds would be distributed by multiplying the number of people within a district boundary by $62.50. The same methodology would apply for the sewer districts as well. We believe this would establish a fair and equitable pass-through process so that project discussions could be more focused on collaboration and improvements rather than arguments over fairness.

Recommendation: In reviewing the allocations, we are requesting a more detailed review of the formula that ensures municipalities are equitably allocated funding on a per capita basis. The State is proposing to use $350,000,000 for State administration and State identified projects. The balance of $1,000,000,000 is then further sectioned two funding buckets. One is $200,000,000 which is proposed to be sent to counties in the non-competitive round of funding which equates to $2,105,263 per county. The remaining $800,000,000 will be allocated to the same counties based upon per capita basis.

Based on the data TDEC presented in the attachment B of the proposal, the funds available to Shelby County would be:

Total	$110,836,447
Shelby County (Administrative)	$ 2,105,263
Balance for Distribution	$108,731,184

If Shelby County as the recipient divides the balance based upon population, the proposed distribution would be:

Shelby County Total Population -	936,017	
City of Memphis Population -	651,011	70% of $108,731,184 =$75,623,837
Remaining municipalities and Unincorporated County -	285,006	30% of $108,731,184 =$33,107,347

Based on municipal population this further divides into the following funding:

Funds Available to distribute	Population	Net to Distribute $ 108,731,184	Distributed by Govt S/D		County Admn and Reshare	
Memphis	651,011	69.5512%	$ 75,623,837	$ 75,623,837		$ 75,623,837
Germantown	39,373	4.2064%	$ 4,573,713			
Collierville	51,778	5.5317%	$ 6,014,723			
Bartlett	59,514	6.3582%	$ 6,913,366			
Lakeland	12,714	1.3583%	$ 1,476,905			
Arlington	11,811	1.2618%	$ 1,372,009			
Millington	10,669	1.1398%	$ 1,239,350			
Muncipalities other that Mem				$ 21,590,066		$ 21,590,066
Unincorporated	99,147	10.5924%	$ 11,517,281	$ 11,517,281	$ 2,105,263	$ 13,622,544
Memphis and Shelby County	936,017	100%		$ 108,731,184	$ 2,105,263	$110,836,447
Shelby County Total	$ 110,836,447					
Shelby Co Administration	$ 2,105,263					
Funds Available to distribute	$ 108,731,184					

For Memphis, the actual dollars potentially available would be $75,623,837 which equates to $116.16 per capita. Yet if the $1.0B was equally distributed statewide on per capita basis this would equate to $145.20 or $94,526,797 for Memphis. Memphis suggests an alternative approach for the $200,000,000 disbursement to all counties, so that funds could be increased to those urban areas that have the greatest need and who frequently demonstrate the most propensity for cooperative agreements towards wastewater, stormwater, or groundwater management.

One strategy to aide all the counties more effectively could be leveraged using the TDEC Field Offices, with the assistance of TDEC approved contracting consultants, to work with directly local municipal/county governments. To fund this approach, the $200,000,000 currently allocated to counties for additional administrative costs would be reallocated in the non-competitive funding formula as follows. Each of the eight TDEC Regional Field Offices would receive $10,000,000 for administrative and contractual management assistance to those governments within the region's boundary. An additional $20,000,000 would be set aside for the TDEC Headquarters to reallocate to any Regional Office that may require additional assistance.

Under this plan TDEC Regional and Headquarters Offices would receive a total of $100,000,000. The remaining $100,000,000 could be allocated to the four major metropolitan municipalities '/cities based upon population. Whereby a more equitable total distribution is achieved on per capita basis and one that more closely aligns with the 40% benefits outlined by the Presidential Executive Order (referenced as Justice40). White House Fact Sheet Jusctice40

Recommendation: Instead of disbursing funding directly to counties as proposed for disbursement to municipalities, utility districts, and authorities within their boundaries, we suggest each county receive $2,105,263 in funding to be used by the county or disbursed as described in the draft document. We suggest the population allocation for each county be disbursed directly to applying municipalities in a population-based manner. After the State approves the applications directly submitted by municipalities, utility districts, and authorities or systems, the State can use the population-based allocation to each county to directly fund the applications as follows:

Municipality Allocation = (Qualifying Entity population/total qualifying entity population in county) * [($800,000,015 * (County population/Tennessee population)).

Recommendation: In lieu of disbursing funds directly to counties that will be responsible for further disbursement to municipalities, utility districts, and authorities within their boundaries, we suggest disbursement directly to municipalities, utility districts, and authorities. We further suggest that allocations for each county be proportional to the total services provided by the respective municipalities, utility districts, and authorities within the county. Such allocations should fairly reflect the infrastructure burden necessary to provide all services offered by a given provider. We believe this burden is best represented through each provider's net plant value as a proportion of the total net plant value for water and wastewater infrastructure within the county. After the State approves the applications directly submitted by municipalities, utility districts, and authorities or systems, the State can use the proportion of total services allocation for each county to directly fund the applications as follows:

Provider Allocation = County Total Net Plant / Provider Net Plant

Where County Total Net Plant = sum of net plant value for the water and wastewater infrastructure each provider has within the county

AND

Provider Net Plant = net plant value for the water and wastewater infrastructure the individual provider has within the county

Recommendation: Leave the funding level for Putnam County as is at $11.3 million but change the distribution plan removing the County as the primary recipient of the funds. We recommend the requests go directly to TDEC from each municipality and utility district for consideration and scored based on need and priority. The funding could be then be dispersed directly to the municipality or utility based on TDEC approval. The funding should be used for TDEC and community identified needs and priority objectives as identified by the scorecard and additional work by the municipality or utility to further identify and record the need with a plan for improvement. The greatest need should be addressed first and then filter down from highest priority to lowest. It is our belief that the highest priority need should be rehabilitation projects and new/extension projects identified as lower need on the scale. All eligible utility districts in our community should submit a letter of request or a letter of denial indicating first if they intend to submit a request. The funding for Putnam County should only be dispersed to utilities based and operating in Putnam County and in no way should be used for projects that extend into other counties or benefit other counties. The $11.3 million to be received by Putnam County is already being identified by the county as potential to expand water lines to county residents who do not have drinking water. While we feel this is a noteworthy consideration it is not our top priority. The projects submitted to TDEC by our utilities for Putnam County could be based on a point system generated by the number of services provided by the district. For example, a water utility would get one point towards distribution where a city that serves water, sewer, and stormwater would get one point for each service they provide to arrive at a total of three points. Assuming there are three utility districts in Putnam County and 4 cities would arrive at a point total of 15. We can add one additional point for size variance with Cookeville for a total of 16 points. Then we would divide the eligible funding by the number of points arriving at $706,250 per point of qualification. The funding eligibility per city would break down as follows: Cookeville - $2,825,000; Algood, Monterey, and Baxter - $2,118,750; Individual Utility District - $706,250 each. Any participant not submitting would have their funds equally distributed to the other entities based on the point system division of total money available.

- *What sources of funds such as federal, state, or local funds, and what type of co-funding, such as direct, indirect, or in-kin should be accepted?*

Comment: Although all counties and some cities within Tennessee are receiving direct ARP allocations, these funds are not specifically targeted toward addressing community water infrastructure needs and may be used by communities to address a plethora of other issues wrought by the COVID-19 pandemic. In its draft Plan, TDEC encourages cities and counties to consider utilizing their direct ARP allocations to fulfill TDEC's co-funding requirement on water infrastructure projects. Draft Plan, 19. Although some counties may choose to do so, these additional, individual ARP allocations should not be considered by TDEC when creating its allocation formula for non-competitive grant money for water infrastructure projects. Counties and cities may determine other high-priority uses for these funds, and TDEC should not penalize them for doing so.

Comment: The matching fund percentage is being determined by the Counties ATPI. This may be much different from the ATPI of the City that operates the water and wastewater utility. In our case, the county has a ATPI of 80 while the city has a ATPI of 50. As such our matching percentage is 40% instead of 30%. This doesn't seem fair.

Comment: In regards to the Co-Funding Requirements, we feel that there should only be one matching amount percentage - state-wide. We feel that if the co-funding requirement is lower and all at one rate, more projects to benefit all Tennesseans could be completed. Many grants and programs are funded with an 80-20 matching requirement. We think this is the best option for this program.

Comment: Unless the interim Treasury Regulations are changed to the contrary, other funds may be added but not required.

Comment: I am the Mayor of Stanton, TN, the closest municipality to the Memphis Regional Megasite (Blue Oval City). We are a small town (population 450) and 40% of our residents live below the Federal Poverty level. The proposed 20-40% co-funding requirement will be a substantive hurdle for us. TDEC recommends that our ARPA allocation ($124,000) be used as co-funding for our water and sewer needs. Even at a generous co-funding rate of 20% and using all of our ARPA money for the water/sewer project, we will only receive less than $500,000 to put toward our water and sewer projects. As you know, that amount won't go very far in a water and sewer project. Plus, we have other needs in town and can't possibly use all of our ARPA money just for water and sewer.

Comment: Federal and State funding should be the primary source of funding as local entities do not have sufficient funding or manpower to complete most projects to the water and or wastewater systems. Co-funding could possibly include local share matching or loans.

Comment: We submit that maximum flexibility should be given to the utilities for co-funding to include direct, indirect, and in-kind.

Comment: Please consider eliminating the co-funding requirement. Many rural counties lack sufficient funds needed to meet the co-funding requirements. Further, if other ARP funds are the only source of funds available for the co-funding requirements, that will delay the expenditure of these funds creating further challenges with the aggressive timelines and stressed supply chain issues and limited engineering and construction resources.

Comment: The City of Lebanon will use local funds and in-kind services from the cities engineering, GIS, planning, financial, and economic development teams which are ready to develop the project to meet the match expectation of 40%.

Comment: TDEC is dedicated to providing American Rescue Act funds to local municipalities to improve water infrastructure. I do not have any issue with this plan and believe that if properly managed and implemented municipalities will benefit from the investment. If the federal government, state government, or even the municipality (which received American Rescue Act funds, and were not required to spend those funds on water infrastructure) want to match funds at some percentage I think that would be acceptable.

Comment: Most county governments do not have a stockpile of funds that they can just access to co-fund municipality water infrastructure projects. Again, required ARP cofounding being placed on county government IS NOT part of the U.S. Treasury Interim Final Rule. For TDEC to suggest, require, or pressure county government to match funds for municipality infrastructure far surpasses TDEC's government purpose and oversteps your authority.

Comment: I would also like to point out that nowhere in the U.S Treasury Interim Final Rule does it state that local governments (including County Governments) are required to spend any of their allocation on State of Tennessee plans, nor are they required match water infrastructure plans imposed by state government. The Interim Final Rule does require that a dollar amount based on population is required to be distributed to county government. The U.S. Treasury Interim Final rule does provide guidance for local and state government on how local and state government can spend the funds they are allocated. l do not believe that the TDEC plan considers what is best for local county government. l do not believe that the U.S. Treasury Interim Final Rule allows for State government to dictate or pressure local governments to participate in a plan that the state puts forward. Simply put this plan IS NOT in line with or comply with the U.S. Treasury Interim Final Rule.

Comment: As in the TDEC draft, the Ability to Pay Index (ATPI) should be used in determining co-funding requirements for proposed projects based on a utility system's unique socioeconomic and financial data based on the community served by the utility. (Page 19)

Comment: "Matching funds" might sound like a smart approach. But it is very racially and economically biased. It is not a good measure of who deserves the most funding. It only represents who has the most funds available. If my city contributed less money than some other city, maybe it's because my meager resources went to fixing a leaky roof, or toilets that won't flush.

Comment: The City of Memphis recommends that no matching funds be required. No other federal recovery funding has mandated any such requirement so none should be required by the State. In researching the interim U.S. Treasury rules for federal recovery funds, there is no reference to any required matching funds.

Comment: Page 19 – Co-Funding Requirements – "A county's co-funding requirement is based on the Ability to Pay Index (ATPI)"**.** Newport Utilities concurs with the state using the ATPI to determine a county's co-funding requirement.

Comment: I have real concerns about the match requirement. Our community has considerable infrastructure needs and I question whether the intent of the American Rescue Plan (ARP) is being captured in our state's proposed plan. Requiring a match minimizes the impact these dollars can have on our community by siphoning resources from other true needs that we have. The ARP was designed to help us in an especially critical time in our country's history, not put our community into a zero-sum position of robbing Peter to pay Paul. Thank you for your attention to this important opportunity to ensure aging infrastructure can be improved to protect the health of Tennesseans.

Comment: The utilities have another issue. While improvements need to be made to the system and the ARP funds are their best chance, coming up with 20% is going to be difficult. USDA, SRF, CDBG and ARC may be an option, but there are concerns with meeting the deadline to have funds obligated by Dec. 2024. In addition, it will difficult enough to fund depreciation on a small system, much less additional loan fund debt service. Also, CDBG and ARC are moving toward more projects that are not infrastructure related.

For example, the depreciation of developing a new water source for the Sneedville Utility District several years ago resulted in customer rates being raised several dollars on the base rate. This resulted in a lot of unpleasant phone calls, but was a necessity. The utility commissioners will want to limit this as much as they can as their customers have income limits. Hancock County is usually either poorest or next too poorest county in Tennessee. Would TDEC consider dropping the match for distressed counties to either 0% or 10%? Also, small population counties such as Johnson and Unicoi face some of the same issues with limited local ARAP funds, but to a lesser extent and would suggest dropping the match to 10% for these type of counties.

I think the match percentages should be reconsidered. Typical matches for government projects range from 5-25%. 40% match for some counties is excessive

I received a call from my Development District this morning contesting White County's status as "Transitional" on p. 34. However, looking at ECD's County Economic Status Map for FY22 – the Development District is wrong, and White County is transitional for FY22. However, if we aren't using the ARC/ECD economic distressed rankings, I'm not sure it's helpful to even display them. This has caused a little heartburn in my communities. They are used to these categories, but since we are basing the co-funding percentage on ATPI solely, it's confusing to them.

As best as I can figure, 0-40 ATPI leads to 20% co-funding rate. 50-60 ATPI leads to 30% co-funding rate. 70-100 ATPI leads to 40% co-funding rate. Since SRF categorizes a "disadvantaged community" as one with an index of 50 or less (as you said on p. 11), then I think it is more defensible to make the 20% co-funding group include those with an ATPI of 50. If that's not possible, I think it would be helpful, at minimum, to have an explanation of how the ATPI/co-funding breakdown occurs in the plan.

Comment: Congress passed the American Rescue Plan in direct response to the coronavirus pandemic as communities grapple with public health and economic impacts. Central to this law, and as reflected in its title, is the word "rescue." The overall purpose of the American Rescue Plan is to support the citizens and institutions which have suffered particular hardships due to COVID-19. TDEC's proposal to utilize public funds for private development is neither the highest nor the best use of this money. TDEC should reevaluate the state-priority projects that relate to funding proposal and reaffirm its commitment to prioritize spending of ARP water infrastructure dollars on community-based projects.

We encourage TDEC to refocus the plan on previously identified areas and information from the Infrastructure Scorecard where the is limited and insufficient funding to update Tennessee's existing infrastructure. The nearly $200 million slated for ECD to entice future industrial development and build new developments takes needed dollars away from the critical maintenance, upkeep, repair, and long-term planning of the State's water infrastructure.

We have heard mentioned multiple times that Metro areas have already received ARP funds and it appears TDEC has penalized these communities in the water infrastructure investment formula. The Metro areas within Tennessee are historical and have been built and developed over the past two hundred years. Infrastructure needs extend far beyond water and many governmental agencies have already voted and approved the use of ARP County and Metro funds without knowledge of this matching requirement. TDEC should not penalize them for investing the federal ARP funds to other high priority uses.

Match dollars should not be required to receive this funding. When accounting for match funds, the dollars per capita are greatly reduced when a public service provider has to produce additional matching funds. The match requirement places an unnecessary burden on communities and counties already facing financial strain.

Recommendation: Co-Funding for the non-competitive grant program should not be limited to a county's ARP Local Fiscal Recovery Fund monies. TAUD suggests that TDEC not limit local co-funding solely to county ARP funds which a county may have set aside for water and wastewater infrastructure projects. Co-funding should be permitted from the following sources as well. Utilities should be able to provide the required co-funding from their own funds. Municipal utilities should be able to use their own ARP funds to provide co-funding for water and wastewater projects included in a county's project proposal. To the extent permitted by the granting agency, a utility should be able to use other grants for its co-funding requirement.

Recommendation: Some systems are financially stable while other systems may not be as healthy and will need to pursue multiple options to provide Co-Funding. Therefore, multiple options of Co-Funding such as CDBG, ARC, SRF and local funds should be available including previous distributed ARP funding.

Recommendation: TDEC should encourage counties which have municipal water and wastewater systems in their counties to use the municipality's own Local Fiscal Recovery Fund dollars to meet the co-funding requirement. All cities in Tennessee have received or will receive ARP funds from the United States Department of the Treasury (Treasury) which can be used for water and wastewater infrastructure projects. Utility districts, utility authorities and non-governmental water and sewer utilities are not getting any direct funds under the ARP. The Draft Plan should provide that municipal water and sewer utilities first use their own ARP funds to meet the co-funding requirements for their projects before seeking any co-funding assistance from county ARP funds. Such a provision will free up more county ARP funds for the co-funding of projects for other utilities.

Recommendation: The matching funds for the ARP grant should be allowed to come from system reserves as well as other forms of ARP dollars. Systems that have long managed their finances and have the capability to do so should not be penalized and should actually be rewarded for good financial stewardship. In normal conditions systems in a strong financial position are left to take care of themselves and left out of grant processes because of their ability to "fend" for themselves. In this instance all systems should be given equal access to the funding based on a solids plan with solids projects.

Recommendation: Consider alternative co-funding sources to maximize the benefit and expedience of available projects to and for sub-recipients. Further, if timing due to available professional consultants, contractors, or vendors limit projects, I would propose consideration of any potential "force account" work to further expedite utilization of funds and construction of projects such that current sub-recipient forces may be utilized for the "in-kind" co-funds. In any case, I would suggest/propose that any materials require AIS (America Iron & Steel certifications) for utilization in funded projects.

Recommendation: Co-funding for the projects should not be limited to the ARP Local Fiscal Recovery Funds supplied to the counties and municipalities. TDEC should encourage the use of these funds as such but several of the counties I know of are giving very little to none of such funds for water and wastewater projects. Therefore, districts will have difficulties matching funds if they are not allowed to use their own monies, granting agencies or other loan services.

Recommendation: Any and all sources of funding as allowed by the regulations set forth within the American Rescue Plan whether it be direct, indirect, or in-kind should be accepted. This is a great opportunity for utility districts across Tennessee to make much needed improvements - an opportunity we most likely will not see again. The State should not further regulate beyond what has been set forth by the US Government.

Recommendation: All sources of funds should be accepted to meet any requirement for matching funds. Supply and demand is going to drive up the prices for infrastructure work. It is important to be able to use the value of the utility in-house work force as match so more infrastructure work can be completed.

Recommendation:

- Appalachian Regional Commission infrastructure funding (ARC)
- SRF Loans and Grants
- ECD CDBG funding on a competitive for infrastructure; infrastructure funding that support economic development-facilitation of industry location and/or expansion
- Economic Development Administration (EDA)competitive infrastructure funding
- Rural Development Administration (RDA) infrastructure loans/grants
- Tennessee Municipal Bond Funds
- Funding provided by an industry/investor to facilitate infrastructure needs on their behalf
- For profit and non-profit entities
- Tennessee Valley Authority

Recommendation: It is logical to believe that local utilities financial situation closely mirrors the county's to which they serve; thus, most local utilities located in distressed counties are also negatively impacted by the community's socioeconomic financial situation.

The state should provide a provision that states that local utility companies in distressed counties will also have co-funding requirements based on the local's ATPI.

Recommendation: Any funds (federal, state, local) that are committed to the project area, i.e., water, wastewater, stormwater. Creative accounting at the local level to generate matching funds by shifting funds from different, non-related project should be discouraged. Local ARP dollars are mostly committed to other projects and probably not available as a source for matching funds.

Recommendation: Any funding which is normally available to utilities should be accepted.

Recommendation: Allow projects built by the utility or local government to be eligible for funding, allowing the in-house work value to be eligible for fund match.

- o General fund resources.
- o Enterprise fund, as appropriate.
- o SRF loans.
- o Funding from public/private partnerships as applied to public infrastructure.
- o GO/revenue bonds (depending on the situation).

- *How, through this Water Infrastructure Investment Program, can TDEC further support sub-recipients in engaging in planning and identification of projects for inclusion in proposals?*

Comment: Give the County Commission in each county some say so on the projects to divide them equally across the county, with areas having no access to public water getting priority over other projects

Comment: We need people on the ground representing TDEC to help review potential projects.

Comment: TDEC could give a priority list for types of projects.

Comment: MLGW supports TDEC's proposal to hold workshops with the help of TAUD to educate counties, municipalities and utilities about program requirements, proposal templates and project prioritization. MLGW recommends making those workshops available virtually, as well as in person, and making all program materials, plus FAQs available on TDEC's website.

Comment: TDEC should consider commissioning an organization such as the Tennessee Association of Utility Districts (TAUD) to work one on one with each recipient to plan and identify projects for inclusion in proposals.

Comment: The planning should already be done as evidenced by the need. With your timeline, you don't have time to create new projects. The needs are there. Responsible entities (not county government) will know the projects and the anticipated costs.

Comment: Clearly identify eligible expenses. Some of the larger infrastructure projects will go well beyond the expense deadline so it is recommended that permitting, engineering, master planning, etc., be eligible expenses.

Because many utility projects take an extensive amount of time to complete, extend the expenditure deadline by several years or provide a mechanism for an approved project to go beyond the now established deadline. Due to unforeseen delays that may occur due to the current construction environment, it may be worth establishing a project "notice to proceed" deadline.

Comment: Where TDEC has staff resources, they could likewise work with the planning efforts or contract with experts to provide the support they need.

Comment: The City of Lebanon would like a direct allocation of 42.7% of the funds in order to expedite project submittal to TDEC for approval, as the project is already a regional project necessary for the city and county to thrive by continuing to provide reliable wastewater treatment services to meet the growth needs, resolve infrastructure at the end of its useful life, as well as incorporate new innovative applications of the cities engineering expertise, to begin resolving limited landfill space, specialized industrial discharges, and the treatment requirements for emerging pollutants.

Comment: Provide a portion of the State-initiated Strategic Projects funding to systems to use for Capital Improvement Plans performed in conjunction with consultant registered engineers. This will not only equip systems for how to best proceed during this time but will also equip them with a plan and costs for years to come.

Comment: Unfortunately, the Benjamin Franklin quote “If you fail to Plan, you are planning to fail” seem very appropriate to many smaller communities that are disconnected between Cities, Counties, Water Utilities, IDBs, Chambers of Commerce, and public engagement. Most Utilities (sub-recipients) will have access either to a contracted Engineer/Firm or Professional Agency (i.e. TAUD, MTAS, CTAS), however the disconnect is often between

Utilities Plans and the elected County Executive(s) or Commissioners Plans for growth and development. In order to expand availability of services to Counties, entities like TAUD, the Development Districts, CTAS, MTAS, or TDEC's EFOs may need to add technical staff to expand available services as some Counties may never value Planning or utilization of third-party engineering, consulting services, or have the means to support in-house professionals.

Recommendation: On projects that are for repairs or upgrades of existing facilities, waive the numerous steps of environmental approval and have enough TDEC representatives available to make common sense decisions early on in the project to avoid delays.

Recommendation: Require (not encourage) towns, cities and utilities to be involved in the identification and prioritizing of all potential infrastructure projects within the county.

Recommendation: Require the scheduling and holding of public meetings for the development of the proposal with ALL utilities receiving a formal invitation.

- *What additional actions can TDEC take to more fully inform interested stakeholders on its plans for deploying these funds and the non-competitive grant program in particular?*

Recommendation: Have regional meetings with county, city, and utility district representatives.

Recommendation: More individual or regional visits to counties and utilities.

Recommendation: The City of Lebanon is pleased with the distribution list and would appreciate notices each time the website is updated concerning the program.

Recommendation: Answer stakeholders who are looking at projects that they may not be able to complete by the deadlines currently in place. Cities are already having a hard time finding bidders on projects. No one wants to be stuck with paying for a multiyear project that wasn't completed prior to the deadline.

Recommendation: In areas like Memphis allow a portion of the funds for planning to be used to reach out to interested parties, and citizens.

Recommendation: Notification to water and wastewater systems directly; hold informational webinars or in person sessions.

Recommendation: If the decision is made to let funds flow through counties, it is recommended that TDEC schedule and hold on line meetings with County Representatives, towns, cities and utilities representatives to discuss:

- Program Purpose
- Perceived Conflict of Interest (a commissioner in a leadership and decision-making role who may be an employee or board member of a utility)
- Scorecard, application, proposal
- Distribution Methodology
    - What they can and should not do

Recommendation: Some counties may proceed in a free-range manner on how the funds, from their perspective, should be distributed that will benefit them politically and grant favors to particular utilities. Again, TDEC has measures in place to manage this, but it is after the fact. Counties should not have full discretion on the front end of the process to distribute funds without specific requirements. TNECD, TDEC SRF and other granting agencies have in place certain procedures and requirements for use of funds. ECD's contract with local governments are very specific on how funds are to be used, invoiced and managed from beginning to end of project timeframe. Additionally, the contract has a specific statement regarding Conflict of Interest, Public Accountability, Lobbying, etc.,

Recommendation: While this effort is a good start, please maintain the commitment to open and frequent communication with stakeholders at all levels.

- *What current water infrastructure data and information challenges exist today, and how could a state-led project could alleviate those challenges?*

Comment: Unfortunately, many small utilities do not possess the staff or technical ability to support a modern GIS based or even electronic data system(s) and are dependent upon their Engineering Firm or third-party provider to maintain water infrastructure data, if it exists at all.

Comment: TDEC has the experience of knowing which projects work and which ones do not instead of having an engineering firm pick the best solution. A list of preapproved methods would help local decision makers immensely.

Comment: Challenges include the lack of recorded locations of lines, valves, and hydrants on a GIS mapping system. The State – led project could assist all systems with the completion of said projects.

Comment: The City of Lebanon has expertise in GIS and Supervisory Control and Data Acquisition Systems (SCADA), as do many other communities with large utility infrastructure. The City of Lebanon suggests that TDEC set up a technical advisory committee to assist in developing standards and systems that will serve by protecting communities from cybersecurity attacks on infrastructure, as well as enhancing SCADA to better serve the next generation of operators via duel redundant systems and other state-of-the-art controls that provide: English language descriptions of alarms, automatic actions the computer takes, as well as operator actions to assist in appropriate responses when failures or emergencies occur.

GIS should be available to every citizen in Tennessee as a communication method when utility outages occur, or infrastructure enhancements create the need for outages. A Tennessee Utility GIS technical advisory team could share and expedite the development and deployment of ARCGIS for citizens seeking information about their utility service and TDEC. Through this team, they could negotiate a contract for ARCGIS to enhance statewide availability to citizens.

Comment: Thinking specifically of a county I have worked with for over 40 years in various grant programs, the challenges with infrastructure include: Providing potable water to rural areas, residential, commercial and industrial developments far exceeding the capacity of needed infrastructure within incorporated areas, aging infrastructure far exceeding its useful life expectancy with the need, to replace deteriorated and inadequately sized water and sewer lines, to address system water loss and Inflow/infiltration of water in the sewer conveyance lines, to increase Waste Water Treatment Plants' and Water Treatment Plants' capacities to handle existing and projected flows, to add state-of-the art treatment and monitoring technologies to adequately support economic, commercial, residential and industrial growth, to replace and/or construct storage tanks, to meet TDEC's requirements for storage, to replace and/or construct sewer pump stations, and limited resources to adequately address infrastructures needs. The State could possibly alleviate some of the challenges by continuing to provide infrastructure funding as a line-item budget within the State's budget to augment CDBG and SRF funded projects. In previous years under the CDBG Program, the Governor had a set-aside pot of funds whereby he could fund a much-needed projects that were not competitive enough to be funded.

Comment: TDEC needs to require data in a consistent format which can be accessed by water/wastewater entities and TDEC staff. Too big of a project for this funding source. While important and should be done, this does not fit into the goal of these funds.

Comment: Newport Utilities, similar to many small local utility companies, struggles to maintain an up-to-date asset management system, including a GIS and mapping system.

Comment: Although there is a statewide repository of information there is a need to train and introduce users and potential users to the system.

Comment: Current data and information challenges:
Poor system maps due to retirement of key system employees and that data not being transferred to written records. Lack of accurate as-built information being recorded during construction projects and being transferred to digital format. Prevalence of PVC water pipe without the use of tracer wire preventing accurate location of utility maps. Lack of water distribution system district or zone metering. Security concerns in transferring information to the public domain for critical water infrastructure.

To alleviate these issues the state should do the following:

State led project could provide specific funding sufficient to start or advance GIS systems for each utility. With submission of each systems map in a secure manner to the State, regional planning would be much more feasible. Exercise of extreme caution in a state-wide project when compiling multiple systems information to avoid hacking threats, terrorism threats. Caution to avoid undue pressure being applied for consolidation/mergers or misuse of data for profiteering purposes.

Recommendation: Provide a one stop shop cloud-based asset management system that includes all water and wastewater assets statewide that could be used to update GIS and mapping in accordance with page 25 para titled "***Statewide Information Technology/ GIS Project***." This system must be able to be accessed remotely and must be developed to serve as an easy way to maintain GIS and mapping resources statewide for improved strategic planning statewide and to allow easier collaboration between counties and utilities. Efforts should be made to capture all data contained in disparate systems presently retained and maintained at each utility to initially populate new system. Developing statewide standard will aide sharing of data while also reduce costs due to widespread use.

Recommendation: The already identified strategic project that partners with TAUD will be helpful for those utilities that need support in this area. TDEC may want to consider allowing purchase of software and startup services (ArcGIS, customer service, etc.) if certain utilities do not have the resources to purchase and commit to fund for a multi-year period. Another example of this would be to transition to AMR or AMI, allowing the software and deployment costs to be eligible for a certain timeframe to allow a utility to appropriately budget and adjust rates.

Recommendation: Water loss data has been collected for many years via the regulatory requirements of the Tennessee Comptroller of the Treasury. Analysis of the compiled data indicates substantial amounts of potentially recoverable leakage. Leakage in the field tends be out-of-sight, out-of-mind. The recent advancements in IT/GIS, sensors and analytics opens up a new world for utilities to better manage the efficiency of the buried water infrastructure. 1n the late 80's and 90's the Tennessee Energy & Water Conservation Program, managed at that time by the Energy Division, was a very successful award-winning program in which water audits, meter testing and leakage surveys were conducted throughout Tennessee at no cost to the water systems. I was the Project Manager for the consulting firm awarded the contract to implement the program. Implementation of today's advanced sensor technology and real-time analytics with a similar statewide program would again establish Tennessee as the North American leader in reducing leakage providing substantial energy savings and benefits to the residents of Tennessee. We now have some utilities in Tennessee that have implemented this type of technology. Forming a task force consisting of experience utility operators to create a scope of work along with a funding mechanism and a statewide contract with qualified vender(s) will provide an avenue for utilities to implement this program within them utility. Sensor technology along with integration of SCADA, AMI & GIS provides insight and direction to solve existing infrastructure inefficiencies. Managing existing infrastructure tends to be much more cost effective than infrastructure replacement. l would be glad to assist in identifying the key experienced utility operators for a task force.

Recommendation: A centralized project led by a competent firm or agency could collect and create a statewide map but maintaining data and systems over time will still be staff and/or system dependent. Requiring electronic submittals of any modern water or sewer project additions to TDEC for approval will eventually provide archive data but may never meet "records drawings" or "as-builts" for actual construction. Evaluating or adopting a TN State standard format for electronic data or expanding the TN Infrastructure Scorecard to be an annual submittal requirement similar to the AWWA Water Audit as part of an Annual Financial Audit may be necessary for some Utilities to act.

Recommendation: A state-led and funded GIS inventory project would greatly assist in alleviating these data challenges.

- *What project types and sub-recipients should be emphasized through a competitive granting program?*

Comment: The City strongly supports TDEC's approach, as described in Section IV of the document, to invest in high priority water/ wastewater infrastructure projects across the state. We have been working with TDEC for several years in the planning for the replacement of the City's aging water treatment facility that was constructed by the federal government during World War II. We believe the replacement of this plant should be considered among the highest of the state's priorities, both in demonstrated need and return on investment. A new plant will significantly improve public health and safety, save large amounts of energy, and support 15,000 high-quality jobs for East Tennessee residents.

Comment: I realize contingent upon the Fed's "Final Rule" eligible projects may change, but I concur with sentiments thru the WIAC to target Water & Sewer projects that would meet the DWSRF and CWSRF criteria to hopefully maximize this unique opportunity for the benefit of all Tennesseans. For other competitive grant projects, I would suggest referring back to prior evaluations of greatest need from the previous TN H2O report and ASCE evaluations of projects for maximum benefit. I would oppose ARP funds being granted to Private or for-profit entities as sub-recipients and would hope grant funds would be allocated based on maximum number of beneficiaries and/or known growth projections and Water & Sewer Infrastructure needs. I would ask if there is a mega project that may impact a Grand Division or the entire State which may include multiple Utilities? (i.e., a water source line from the Cumberland River along the 840 corridors to provide source resilience and growth capacity), protection of water rights from neighboring States, Water Shed protection, Water Source availability with competing interests from State vs Corp of Engineers? Personally, I don't know of a specific project, but is there a Hoover Dam or TVA generational project for the State of Tennessee. I can only imagine the complications with today's regulations, but is there an actual "State" project that could be transformational for another generation and if so, how do we support it as well as protect Tennessee?

Recommendation: For competitive grants: Innovative water loss projects and infiltration and inflow projects; large capital expenditures such a water and wastewater treatment plants that couldn't be funded under the initial rounds.

Recommendation: I would like to see a special priority on projects that remove streams from the human water contact list for bacteriological pollution.

Recommendation: Planning is the key and timing. Infrastructure plans that match existing planning which have goals for a sustainable and resilient community is needed. In addition, projects that are currently under design or "shovel ready" projects should be prioritized.

Recommendation: Type of projects: Water and sewer to include lines, force mains, booster and pump stations, and storage tanks; Water and Wastewater Treatment Plants and equipment; smart meters (water, sewer and electric); up to date technology for plant operation; Scada systems, 3-phase electrical service. Sub-recipients: Towns, Cities, Counties, Utilities—Boards, Commissions; utility districts.

Recommendation: The City of Lebanon suggests that TDEC do everything possible to expedite the award of the formula based non-competitive funds, and as suggested, send the funds directly to communities able to expedite workflows and construction on their own, such as the City of Lebanon. Once that is completed, the City of Lebanon would ask that TDEC open the competitive grant program as soon as possible to allow the start of the open ready projects, as the construction workforce and supply line challenges will make spending the funds in 24-months challenging and to prevent sending unspent funds back to the federal government, when the needs within Tennessee are so great for water infrastructure would be unacceptable.

Recommendation: Water and sewer line extensions for new services.

Recommendation: Life safety projects that need to be solved immediately.

Recommendation: Recipients/sub-recipients that will be able to execute the project within the required constraints and meet the matching requirements.

Recommendation: Consider infrastructure projects that will serve affordable and work force housing that meets the Housing and Urban Development standards for low-income families**.**

Recommendation: Outside of large metropolitan cities, stormwater infrastructure has been something that has seen maintenance deferred for way too long. There should be a concerted focus on stormwater infrastructure.

Recommendation: For many municipalities, the deferred maintenance has created an unknown system - meaning many municipalities do not know the status of their underground stormwater systems. Some monies should be directed to allow municipalities to conduct a comprehensive study of those systems, in order to prioritize and begin repair and maintenance on those systems.

Recommendation: Modernization projects, as well as preventative repair (public safety) projects should be prioritized.

General Comments Section

Comment: Project need along with the overall financial needs of the community should be considered collectively when evaluating funding allocations and grant to local match ratios. Considering the amount of rehabilitation needs of our city coupled with the socioeconomic considerations of our community should weigh heavily on considering the amount of funding available to us.

Comment: One way that ARP dollars available to state and local governments can be used is for "necessary investments in water, sewer, or broadband infrastructure." For water infrastructure projects in particular, eligible expenditures are those that align with Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) eligibility.

Comment: The completion date for the work should be extended to reduce the pressure on the supply chain and contractors to allow more competitive pricing yielding implementation of more work product for the funds available.

Comment: Rehabilitation projects should be scored higher than expansion/extension projects. The amount of rehabilitation needs for our existing municipal infrastructure is extensive. While we appreciate extending municipal services to un-served areas, we feel rehabilitation of existing systems to ensure continued compliance with local and federal regulations should take priority over new services.

Comment: West Stewart Utility District's Board feels that priority should be given to water and sewer growth in unserved areas. The West Stewart Utility District is willing to do its part in support of an overall water plan for Stewart County. This includes infrastructure that serves the District's territory such as a new water treatment plant and/or water transmission lines that connect the District to its neighboring water systems. The District does not object to money being administered through the County, particularly if it addresses unserved in the District and other parts of the County.

Comment: We fully support TDEC's inclusion of green infrastructure as a priority. Whenever possible, policy and projects should include nature-based solutions to support robust economic development, improve the quality of life in communities, and sustain Tennessee's lands and waters for generations. Green infrastructure projects offer a resilient, sustainable, and economical approach that provide multiple economic, environmental, and social benefits of the community simultaneously. For example, people are safer during floods when rivers have more room for floodwaters to disperse and slow down, rather than rise, rage and threaten communities. Not only do reconnected floodplains reduce risk to communities, but they also provide enhanced recreational opportunities and wildlife habitat. TNC asks that special consideration be given to projects that include green infrastructure solutions for stormwater management.

Comment: Recent growth and lack of infrastructure maintenance has created challenges in keeping up with clean drinking water access. TNC believes that chronic water shortages, more frequent and intense droughts, rapid population growth and aging water infrastructure call for the repair and optimization of existing water infrastructure, as opposed to developing new infrastructure projects whenever feasible. Our recent statewide poll shows nearly 60% of Tennesseans consider this their top priority for ARP funds as well. TNC asks that special consideration be given to projects that prioritize improvements to existing water infrastructure and utilize nature-based solutions for source water protection planning.

Comment: Securing and expanding access to clean drinking water is of paramount importance to all Tennesseans, and TNC submits that ARP funds should be directed towards projects that achieve compliance with local, state, and federal water quality requirements while investing in nature-based solutions wherever possible. Especially where drinking water is concerned, investment in source water protection planning is critical and should include conservation practices that leverage the connection between healthy forest cover and improved water quality for downstream drinking water sources whenever possible. Our Preliminary GIS analysis shows that rivers such as the Clinch, Emory, Duck, Collins, and Little Rivers are important sources of drinking water, recreation, and wildlife habitat, and might benefit from improved forest management practices upstream of municipal drinking water intakes.

Comment: A point system or credits should be considered for utilities that provide water, sewer and stormwater as compared to those that provide only one utility (i.e., Utility Districts that only provide water should not be scored the same as those of us that provide all three.).

Comment: The City of Johnson City system is geographically located in four counties. Will we be coordinating process with all or is there a process to simplify? There other municipal systems located in multiple counties, so this issue is not limited to us alone.

Comment: The City of Goodlettsville is geographically located in two counties. Would there be a coordinating process with both counties or is there a process to simplify? The neighboring town of White House is also located in two counties, so this issue is not limited to us alone. Also, we will find some utility districts facing the same dilemma.

Comment: Need for state coordination on purchasing rules- we believe supply chain will be an issue with the entire country doing water projects using ARP funds, so the state's assistance in contracting and bidding would be beneficial. Perhaps creating a state approved listing of contractors similar to TDOT's Paving contractors might be beneficial given the volume of water projects likely to be starting nationwide.

Comment: Need for state coordination on inter-state agency cooperation. Permitting and road issues with TDOT, environmental permitting with TDEC, etc. could be an area the state could assist local jurisdictions in fast-tracking or streamlining projects.

Comment: The City strongly supports TDEC's approach, as described in Section IV of the document, to invest in high priority water/wastewater infrastructure projects across the state.

Comment: The plan begins with a set formula for counties independent of needs across the state. This is the first fatal flaw as assessing the true needs across the state should come first. Using the Infrastructure Scorecard, weaknesses and vulnerabilities in systems can be determined across the state. Assessing need, in conjunction with planning documents and compliance issues, should be the primary approach in determining the allocation of resources.

We recommend a funding formula that is based on the outcome of the Infrastructure Scorecard and a reflection of Justice40. Instead of allocating a flat amount to Counties, the dollars can be divided amongst TDEC's Field Offices for further distribution as they have closer relations with service providers in their territories and a better understanding of their systems. This can streamline the process for Counties and better allocate ARP dollars to the systems most in need – for compliance, strengthening of failing vulnerable infrastructure, and protection of human health.

There are differing needs across the state. We have heavily urban centers and dispersed rural populations. Using population for the basis of the funding equation isn't a relevant factor in determining where the highest priorities in our infrastructure vulnerabilities are. We encourage transparency in this process and TDEC should publish the results of the Infrastructure Scorecards rankings, comprehensive plans, and compliance issues. The revised formula and allocation chart also need to be a part of this published database.

By approaching the investment in a more strategic way – through the compilation of the Infrastructure Scorecard and key priorities – funding can be equitably allocated and reduce burden on the Counties. This approach also supports the general needs identified in TN H2O and can provide a better foundation for the management of assets.

Comment: Given the explosive growth in many parts of our state, TNC supports the Plan's efforts to manage growth through smart, regionalized, and consolidated planning. TNC supports use of ARP funding to facilitate both planning and implementation of regional water supply efforts. Many of our most scenic and environmentally significant waterways are at risk of overallocation if current growth trends continue or increase. New development must be planned for in a thoughtful way, so that existing infrastructure--like sewer and stormwater maintenance--can handle it. City and county governments often do not have the resources--or access to the information for resources--to prioritize this issue. The ARP funding presents a unique opportunity to do so using grants to local communities and added supports to mitigate the negative effects of poor (or no) planning. Consolidation and regionalization give us the best hope of protecting the natural heritage of our waterways while providing critical water resources to Tennessee's growing population. TNC believes allocating funding to regionalization and consolidation efforts, especially by way of local governments, should be prioritized.

Comment: The Federation strongly supports TDEC's Draft Water Infrastructure Investment Plan and funds deployment strategy. In particular, the Federation supports the following: Water Loss Reductions for Drinking Water Systems and Reuse - Repairing leaks in failing water infrastructure and increasing water efficiency and reuse means that fewer gallons of water that are unnecessarily drawn f om Tennessee surface waters, conserving precious natural resources, including needed instream flow for wildlife and habitats. Infiltration/Inflow Reductions for Wastewater Systems - Addressing infiltration and inflow issues will result in fewer sanitary sewer overflows that can pollute creeks, streams and lakes/reservoirs and adversely impact human and environmental health. Green Infrastructure - Green infrastructure is good for healthy waters, healthy fish and wildlife, and healthy communities. It ean help reduce flood risk, a particular concern for Tennessee's Mississippi River Basin riverfront communities. This is aligned with national level efforts, like the Mississippi River Restoration and Resilience Initiative to use natural infrastructure to create resilient habitats and communities, something the Federation strongly supports. Competitive Grant Program - The Federation supports the plan for a competitive grant program that can be accessed by NGOs and universities to provide technical assistance and project management for implementation of projects that will enhance riparian buffers and habitat around waterways, mitigate stormwater and flood risk potential, and protest drinking water supply. Tennessee Infrastructure Scorecards - The completion of infrastructure scorecards the grant programming will help identify and communicate priority needs and associated projects as the non-competitive grant program moves forward. Regional Water Supply Planning - The Federation supports regional water supply planning, as it is emphasized in the Tennessee H20 plan.

Comment: Planning as an allowable expense is a critical component of long-term success for the Plan and administration of ARP funds. Public-facing facilitated conversations between all stakeholders is a key to identifying and successfully implementing the highest priority projects. TDEC is an ideal convenor of these conversations, especially in high-need areas where growth, water quality, and environmental concerns intersect. TNC fully supports this approach to planning and offers our assistance and expertise with conservation planning and consensus building whenever appropriate.

Comment: We believe the funding formula for the allocations of dollars is fundamentally flawed, not just in the sole basis on population, but with the exclusion of the directives presented in Executive Order 14008 termed “Justice40.”

This is a precedence-setting funding opportunity to reinvest in infrastructure, and it requires a unique approach as outlined by Congress and the Federal Administration distributing these funds.

Justice40 states that disadvantaged communities should receive 40% of benefits from federal investments in clean energy and transit, sustainable housing, training and workforce development, clean water infrastructure, and legacy pollution remediation and reduction. As the $1.35 billion in discussion is sourced from the Federal Government under ARP, these dollars would qualify. We agree with the definition of small communities cited in the Investment Plan. Although, there is a discrepancy with the definition "disadvantaged" and "underserved" communities. (what is the discrepancy? is it below?)

The White House Environmental Justice Advisory Council (WHEJAC) provided interim recommendations that includes a definition consisting of majority minority communities, formerly redlined communities, high rate of health disparities, income and percentage of households on supplementary income benefits, numbers of superfund, waste, landfills and toxic facilities. The full recommendation can be found on page 64 of the interim final report.

It is of note that LaTricea Adams, a Tennessean and Memphian, was appointed to WHEJAC and is actively involved in the implementation and enforcement of Justice40. LaTricea also serves on Protect Our Aquifer's Board of Directors.

Neither the Investment Plan nor formula reflect the intent of Justice40. For example, the presented formula allocates the least dollars per person for Shelby County residents – the Tennessee county with the highest Black population. The proposed allocation would give predominately white counties a much higher amount per capita. To compare with Shelby County, Pickett County would receive over $400 dollars more per resident than either Shelby or Davidson Counties – the most densely populated and racially diverse counties. Without a need- or impact-based assessment, the state cannot reasonably justify the racially disparate distribution of funds.

It is important that TDEC ensure that its ARP funds allocation model does not result in discrimination against protected classes by systematic underinvestment in their communities.

There has been a lack of input from Black, Latinx, Indigenous and historically underserved populations. TDEC should engage with the environmental justice communities as the representatives in the state appointed committees are not diverse. This should move beyond the single Diversity and Inclusion Council and integrate disadvantaged community voices into existing committees. TDEC needs to be compliant with Justice40 and retool the formula.

Comment: Additionally, TDEC should consider rules surrounding contracting with Black, Latinx, and Indigenous owned businesses. This data can be tracked in a clear and transparent, community facing GIS database as noted in the first section. Specific metrics to Justice40 should be included. The Southern Economic Advancement Project (SEAP) has created a database that can serve as a model for TDEC.

Comment: At the recent Tennessee Municipal League (TML) conference in Chattanooga, representatives of the Comptroller of the Treasury, TDEC, and the Department of Economies and Community Development (ECD) explained the proposed funding plan and timeline. Concerns were expressed by conference attendees about the State's personnel capacity to permit and administer the flood of projects in a timely manner. So many projects conducted simultaneously will also cause competition for limited engineering and construction resources. The City of Johnson City anticipates stressed supply chains and material shortages will be challenged and costs will escalate. Thus, we believe the State should continue to work with the federal government on extending timelines for completion of projects. Attendees also inquired whether the TDEC would consider using ARP funds to forgive loans obtained through the State Revolving Fund program.

Comment: One approach that needs serious consideration is that with the realization that these funds will be a one- time investment to spend mainly on repairs and upgrades to existing utility operations, the depreciation for ARP funds should be accounted for separately by the Water/Wastewater board as not to jeopardize a utilities ability to operate without having huge rate increases to accommodate the depreciation. I have talked with cities who own utilities who are steering clear of utility projects because of the looming depreciation issues.

Comment: Page 21 Listed Priority Areas - Noted that three (3) or more priorities must be included for each project. Are there any weights assigned to these priorities or are they all equally distributed? On of the priorities listed is Asset Management. What would be acceptable plans in place to meet this priority? For cities with established MOM Programs, Consent Decree program, master plans, etc., should be considered and meet the intent.

Comment: Memphis recommends considering having allocations go directly to the four large cities (Memphis, Nashville, Knoxville and Chattanooga). These large cities have enough projects and staff on their own to manage an allocation without county assistance.

Page 13 Overview of Funding Approach- Related to the disbursement of funds, TDEC proposes a formula-based grant. What is the formula and where is it located? Page 14 Administration of Funds - Rules, guidance, and specifically disbursement should be mirrored to match EPA WIFIA's program. Those rules should align with the ARP funds since WIFIA is an EPA program. The WIFIA disbursement is far more streamlined and timelier than the current SRF program.

Page 15 WIAC - Please consider listing the names of the WIAC. This is important to ensure Memphis and West Tennessee are represented properly. In addition, will the WIAC have by laws? How will they be governed? It is noted that they will meet twice per year. How will the WIAC support and accomplish tasks if meetings are only twice per year?

Comment: Thank you for putting together a well-rounded plan that is designed to address the needs of our water and wastewater infrastructure in the state. We appreciate your concern for the needs that the various jurisdictions and utilities have in these areas, and your willingness to utilize the ARP funds to help resolve these things.

Comment: Page 22 Timeline - How will proposals be received by TDEC? How will proposals be reviewed and who will review them? What is the expected turnround time for proposals? Page 26 Industrial Site Development - Suggest that ECD work closely with local economic chamber for potential projects.

Comment: Page 26 Major Regional Water Supply - Are wastewater projects included in this allocation? Page 27 Disbursement of Funds: Competitive Grants - Request that TDEC create and share a dashboard showing current status of activities. This could include proposals received, projects accepted or granted funding, funds remaining, etc. Also, for funds that are not obligated, it is recommended that prior approved projects that were not fully funded be prioritized. Exhibit B Table - Shelby County is listed as Transitional in Exhibit B in the draft plan. The most populous county, Shelby, in the state is getting the lowest per capita funding. The largest City, Memphis, within Shelby County is listed as an Ability to Pay Index (ATPI) of 10 while Exhibit B lists the overall county at 30. Therefore, while all the citizens are receiving funding, the largest population centers are receiving the least funding. Memphis has an ATPI score of 10 and is labeled as disadvantaged. Grouping entire counties together especially those with disadvantaged communities creates further inequality and disadvantages to those communities by not providing the appropriate funding or opportunities. Please include a definition for the terms listed in column 2 - County Economic Status, FY 2022.

Comment: What I discuss refers to the following three listed priorities:

- Asset management planning for sustainable stormwater systems
- Green infrastructure BMPs and managing stormwater
- Building resilience to extreme weather events

These three aspects strongly depend on our availability of updated estimates of extreme rainfall over short (< 24 hours) durations.

There is clear evidence that NOAA-NWS's Atlas 14 underestimates extreme precipitation. Recent data-based comparative studies in other parts of the US indicate that extreme rainfall has already increased in the order of 10 to 20%, as compared to Atlas 14 estimates, and projections based on modeling call for increases between 20 and 30% (and even more, depending on the model) at the end of the century.

The fact that it is already raining more (in the case of extreme events), and that intensities will even get higher, will evidently complicate asset planning, GI design, stormwater management, and the (uneasy) marriage between stormwater quantity and quality control. Also, any attempts at building resilience to extreme weather which do not consider this factor are doomed to fail.

In other words, many of the types of projects that this draft refers to rely on having updated values for "how much it can rain in the x hours where it rains the most." Atlas 14 is underestimating this information.

Also, engineers need more data-based, locally obtained evidence, in order to improve modelling of small urban watersheds (for example, for designing measures to decrease the risk of urban pluvial flooding)

The main focus of the National Weather Service is no longer "weather observation" in the old sense of the word (which included collecting adequate rainfall data, both in terms of quality of the data and density of the weather stations). Just to give an example, they are still using the same Fisher-Porter rain gages from almost 60 years ago, which totalize rainfall every 15 minutes and are not that accurate. Over the same period, every single meteorological service in Europe has upgraded rain gages (some have done it twice), and is now using 1-min resolution, high-accuracy gages, as well as high-resolution rain radar.

The density of rain gages is too low in TN. Every water resources engineer (and meteorologist) that I have spoken to since coming to Memphis says that we get many events that completely shatter Atlas 14 extreme rainfall values, but the vast majority of these are not captured by any weather station, so we never know about them. For example, the recent, tragic event in Waverly got return intervals way above 1000 years for all durations above 90 minutes, with rainfall extremes for 7 hours (the most critical duration) that were 73% above Atlas 14's 1,000 year event. We know this because TVA had a rain gage in McEwen, centered below the storm, that recorded 13.44 inches of rain in the 7 hours that it rained the most (Atlas 14 estimate of the 1,000 year 7-hour rain would be about 7.8 inches). But how many people know that in Germantown, TN, three privately owned rain gages recorded between 10 and 11 inches of rainfall over a 4 hour duration (the same maximum as in McEwen, for 4-hr duration!), on June 7, 2019? What would have happened in less resourced areas of Memphis, if they had got 10½" in 4 hours? Note that the 4-hr event in Germantown exceeded Atlas 14's 1,000 event by a whopping 64%.

The density of urban, small-watershed stream-gaging stations is also very low in TN. The huge rainfall event in Germantown was not captured by a single gaging station! On the top of my head, I would say that in the whole of the state, we do not have more than a handful of urban gaging stations for watersheds smaller than, say, 10 sq.mi., which is already very large for understanding urban pluvial flooding events. Moreover, the distribution of whatever urban gaging stations we have is very biased: Nashville has most of them, Knoxville a few, and Memphis has maybe one or two (on Fletcher Creek and Nonconnah Creek, but these basins are already tens of sq.mi. in size).

In summary, I propose that we do not have the adequate hydrometeorological data in order to begin assessing urban stormwater responses in TN. This type of data is needed to better estimate extreme precipitation, to better design stormwater drainage systems (including GI or LID or SUDS), to manage the infrastructure that we have, and to adequately estimate flooding risk and vulnerability. How can stormwater drainage projects be ranked for funding if we cannot know what is the initial (before project) risk, and by how much they will actually decrease it? Thus, I propose that at least part of this funding should go towards improving our rain and stream gaging network, with a strong focus on small urban watersheds. Just as there are funds for education, there should be consideration for funding applied research in urban pluvial flooding, across TN. All funded projects related to stormwater are required to install monitoring sensors for rain and discharge, so that their performance in reducing risk and increasing resilience can be later assessed (installing them and then assessing performance could be funded by the type of applied research that I propose in 2. above)

Comment: There is little emphasis placed on improvement of water infrastructure for fire protection in existing utility systems. While it appears that fire protection considerations are contemplated for industrial site development projects, there exists a widespread problem of inadequate water infrastructure for fire suppression in existing homes, businesses, and industries. (Indeed, one might also argue more generally against funneling any additional money to industrial development projects when labor shortages suggest that there are not enough employees to fill existing jobs, much less new industrial developments.)

I would argue that improving existing water supply capacity, where needed, facilitates infill of vacant business and industrial properties by removing such barriers as the expense of fire pumps and water tanks to supply fire sprinkler systems. In residential areas, adequate water supply improves quality of life by increasing domestic flow and/or pressure, and also makes exposure protection possible with fewer firefighting resources, which are already stretched beyond reasonable expectations in many jurisdictions.

I work with the First Tennessee Development District and have worked with communities and utility districts in our eight county region for many years. We have assisted in writing applications and administering infrastructure projects for programs such as CDBG, ARC and EDA.

Comment: TDEC proposes to siphon hundreds of millions of dollars away from the critical maintenance, upkeep, repair, and long-term planning of the State's water infrastructure so as to entice future industrial development. Draft Plan, 26. In the face of the overwhelming investment needed for the State's current water systems, and in light of the overall purpose of the American Rescue Plan, TDEC's proposal to utilize public funds for private development is neither the highest nor the best use of this money.

Congress passed the American Rescue Plan in direct response to the coronavirus pandemic in order to support State, local, and Tribal governments as they grapple with the public health and economic impacts the pandemic imposed on local communities. Central to this law, and as reflected in its title, is the word "rescue." The Department of Treasury's interim final rule to implement distribution of these funds is replete with guidance on how these federal monies should be directed to support the citizens and institutions which have suffered particular hardships due to COVID-19.

In its draft Plan, TDEC proposes to allocate $350 million toward state-initiated strategic projects, which it describes as "water infrastructure needs at an enterprise scale." Draft Plan, 23. As part of this distribution, TDEC proposes to allocate up to $160 million of ARP funds to developing industrial sites by providing drinking water, wastewater, and stormwater management services. Id. at 26. This is in addition to more public-focused proposed projects such as investing in statewide technology and geographic information systems, priority state agency projects, and major regional water supply endeavors. Id. at 25–26. TDEC's proposal to allocate nearly fifty percent of its state-initiated project funds toward industrial development is at odds with the purpose of the American Rescue Plan and the State's water infrastructure investment priorities. TDEC should reevaluate this funding proposal and reaffirm its commitment to prioritize spending of ARP water infrastructure dollars on community-based projects.

ARP funds should be used on projects that address current community water infrastructure needs and relate to the eleven priorities outlined by TDEC in the draft Plan. This includes forward-looking investments such as installing green infrastructure and improving community resilience in the face of climate change. See Draft Plan, 10; see also 86 Fed. Reg. 26,803 (May 17, 2021). Only in the unlikely event that all public water infrastructure needs are met so that additional ARP funds remain to be distributed should TDEC then allocate unused rescue funds toward developing private industrial sites for the purpose of business recruitment. Although the State has an interest in supporting economic development within its borders, much-needed community water infrastructure investments should not be sacrificed in the process. Rather, Tennessee should view community-focused investments in water infrastructure as a necessary and crucial step toward attracting businesses and their employees to the State.

(2) By distributing funds directly through the governing body each utility/system can put the funds where they are most appropriate under the grant guidelines without the indirect involvement and unnecessary clutter of indirect distribution.

(3) Small utilities need to make repairs/improvements that would improve the distribution of clean safe, drinking water, but may not be able to afford to provide the match fully in local funds. In-kind match and the use of other non-recurring funding sources should be used to match the 20%-40% local funding.

Comment: I suggest a plan to pre-bid items that could be made available for purchase through "state-contract" pricing. This could be beneficial for many systems that could buy water pipe, pumps, and equipment for extensions or replacement through a pre-contracted price that did not have to be bid out separately resulting in added value of this one time opportunity.

Comment: Stanton is the closest municipality to the megasite and we desperately need money for expanding our water and sewer systems to fund the massive growth and development that will soon be here. We certainly don't have the means to fund these projects, and don't have the financial strength to borrow funds to meet all the upcoming needs. Could some of these TDEC ARP funds be set aside just to help small towns near the megasite? We need a lot of help to grow and expand our systems.

Comment: Beyond the drafted paragraph above, I feel like I have to put my own emphasis on what an incredible asset our water is for Memphis and Shelby County. I can't tell you how many friends have moved to or visited Memphis over the years and said, "I thought the water thing was a running joke." They notice and appreciate the quality of our water. When I travel, I'm reminded how thankful I should be every day to live in a city with such good water.

Over the last few years we've seen how climate or infrastructure related issues regarding water have affected communities across the United States. It's also not hard to see how a lack of access to good water is such a hindrance to other countries around the world.

I'm thankful for the great water that the sand aquifer provides for Shelby County, but it doesn't do us any good way underground if all the infrastructure required to pour it into my glass degrades and fails. Please, don't take for granted the asset that our water is for Memphis OR what an asset Memphis is for the State of Tennessee! I love this city, and our water is one of the often underappreciated but critical reasons why.

Comment: Will the use of these funds require NEPA protocols? If so who will do the review and certification of the level of impact? Will it be the county if the county is administering these fund; or will it be TDEC and if so, what is the delay that can be expected in going through this process. There is a tight timeframe on obligating and expending these funds so delays can be a problem.

Comment: On page 21, the projects to be submitted for funding have to meet 3 of the priority activities listed. Since the utilities have not seen the conditions to be set forth in the TN Infrastructure scorecard 2; and the Cities have had no input into this arbitrary document, the requirement to have 3 criteria is also arbitrary in evaluating the projects being submitted. The utilities should meet certain criteria; however, to require 3 is potentially limiting very good projects because the utilities are doing their job and meeting their requirements. By mandating this criteria requirement, TDEC is rewarding those utilities that may not be addressing those issues. TDEC is not rewarding those utilities that have stepped up and addressed these conditions proactively. Please revise to only require 2 criteria be met.

Comment: The schedule for the process will be difficult to meet due to supply chain issues, lack of engineers, contractors and vendors and the labor shortage. Systems that have shovel ready projects should be given some level of priority and early award if their scorecard is complete and shows system strength an ability to move forward early. This will in turn help move dollars for quality projects and spread out the demands the industry will face when the full allocation of projects hit the streets. For example, at present my system has about $30M projects ready for construction and also has cash available to match ARP funding at the percentage matches contained in the document.

Comment: We would like to be involved in any future discussions, projects, and studies that the department may undertake to have a continuous improvement plan for water, sewer, and stormwater in the state.

Comment: Bottom of page 21 – "…proposed ARP projects may be focused on preliminary work required for larger, long-term projects that extend beyond the ARP timeframe."

Newport Utilities believes this clause is susceptible for abuse. Long term projects and studies are extremely important to ensuring data driven decisions are made in the battle for scarce resources; however, studies and proverbial "shelf babies" are often the end result.

Recommendation: Newport Utilities recommends placing timeline requirements to use data or designs from studies completed using ARP funding. If data derived from these studies are not used, the recipients would be required to repay some, or all of the funds used. Furthermore, Newport Utilities strongly recommends that projects with previously completed studies or engineered designs be weighted accordingly so that they are elevated on the priority list above any "new" studies funded by ARP funds. In essence, some recipients might have numerous studies and engineered designs developed as a result of these studies, waiting for the scarce funding opportunities previously available to them. These projects would be much closer to being shovel ready then any others and can make immediate impacts to these local communities.

Comment: Projects should be focused only on Water and Wastewater infrastructure – cities and counties are already getting funds that they can use for their stormwater issues.

Comment: Many cities in Tennessee continue to see significant population growth, and as a result, the cost of land in many communities is rapidly increasing in value. The high cost of land for expanding and modernizing facilities is a tremendous challenge in today's market. The draft plan would benefit greatly from adding some general guidance on land acquisition, and allowing for multiple, less capital-intensive alternatives such as ground leases, installment sales, and owner-financed deal structures. These types of agreements allow a utility or municipality to establish long term control for investment of capital into facilities while spreading out the initial cash outlay for acquiring land. As an example, the water reuse section mentions land application as a water reuse strategy. In some areas of Tennessee, a utility would have to pay over $100k per acre just to purchase land for the ability to discharge effluent for land application. This type of approach allows for more dollars to be utilized for infrastructure as opposed to just paying for dirt. Innovative and flexible land acquisition strategies should be considered to further the goals of the plan without overburdening rate payers with costly land purchases by local utilities to perform land application for water reuse.

Comment: We would request strong consideration be given to prioritizing pilot projects to develop Tennessee standards for alternative wastewater effluent disposal technologies utilized by other states. Current options in Tennessee are discharging into surface water or land application. Some examples of potential alternatives would be deep well injection, constructed/enhanced wetlands, indirect reuse of treated effluent for potable water, and direct reuse of treated effluent for potable water. Given the continued, strong demand for economic development in Tennessee, it would be prudent to utilize a portion of these funds to establish additional, proven treated effluent disposal options to accommodate the significant growth headed to our state.

Comment: Thank you so much for your consideration and know that we very much appreciate all the hard work that has gone into developing this draft. We can only imagine the long hours and difficulty of developing a plan when the final rules are still being tweaked. Overall, the draft looks great, and we look forward to working with the State and Counties to make significant investments into our utility systems. If there is anything we can do to help or further clarify these comments, please don't hesitate to call, or email.

Comment: The Nashville Area Chamber is committed to the application of American Rescue Plan (ARP) funding for transformational investments in Davidson County and Middle Tennessee. The *Draft Water Infrastructure Investment Plan* paints a clear picture of the need for upgraded and expanded water and sewer infrastructure and the thoughtful allocation of that funding. The Nashville Area Chamber is also committed to innovative use of the ARP funding to aid in addressing one of the most pressing issues facing Davidson County and, increasingly, Middle Tennessee – the housing affordability crisis.

We recognize that the region's economy hinges, in large part, on employers being able to find and retain quality, skilled workforce. The Nashville Area Chamber regularly polls its members and finds that employers are increasingly struggling to recruit or retain their employees who have difficulty finding housing affordable for them as the cost of housing rises.

The Nashville Area Chamber has considered whether ARP funding through the Tennessee Department of Environment and Conservation (TDEC), could be used by public or private affordable housing developers to construct the water and sewer infrastructure needed on affordable housing sites to reduce/subsidize the cost of building affordable housing, thus increasing the supply. We note that this use of ARP funding to reduce or subsidize the cost of building affordable housing addresses TDEC's stated goal of "enhancing service to small, underserved, or disadvantaged communities for drinking water and wastewater systems."

With this in mind, the Nashville Area Chamber respectfully requests that TDEC clarify if this use of funds – allowing public and private affordable housing developers to use ARP funds for the construction of water and sewer infrastructure on affordable housing sites – could be considered an eligible use of funds in formula-based, non-competitive grants.

Further, the Nashville Area Chamber requests that this use of ARP funds be an *allowed* use in the "competitive grants" strategy outlined in the *Draft Water Infrastructure Investment Plan*.