Unlocking Equitable Access to Grants

Options for Federal Policymakers to Improve Matching Fund Requirements

GEORGETOWN CLIMATE CENTER

About This Report

Unlocking Equitable Access to Grants: Options for Federal Policymakers to Improve Matching Fund Requirements

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Cover Image

Next to a two-lane road traveled by cars and trucks, a highway sign reads "Project funded by the Bipartisan Infrastructure Law. Investing In America. Build.gov. NJDOT. US Department of Transportation." Image credit: Georgetown Climate Center.

Notes

This report utilizes footnotes for additional explanation and endnotes for source citations. Footnotes are indicated in Roman numerals and can be found at the bottom of the page. Endnotes are indicated in Arabic numerals and can be found after the conclusion of the report.

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Table of Contents

Executive Summary

As federal policymakers award grant funds to implement climate, clean energy, transportation, and other programs, they have opportunities to remove barriers to the equitable distribution of federal resources. Non-federal match funding requirements – mandates that require grant recipients to contribute financial or other resources for a certain percentage of the project cost in order to qualify for federal funding – are one substantial administrative and financial barrier that limits the ability of overburdened communities to benefit from federal funding programs.

The federal government is providing an unprecedented level of funding to state and local governments and community groups, including through funding programs included in the Bipartisan Infrastructure Law (BIL, or Infrastructure Investment and Jobs Act) and Inflation Reduction Act (IRA). To help ensure a more equitable distribution of federal funding and address the decades-long and ongoing disparities in access to government funding for overburdened communities,[vi] the Biden Administration established the Justice40 Initiative (Justice40), which set a goal that 40 percent of the benefits of certain federal funding go to "communities that are marginalized, underserved, and overburdened by pollution."[1] However, those same communities often lack access to the level of funding (or substantial in-kind resources) required to unlock federal grants.

As a result, non-federal match requirements can be a formidable barrier to achieving the goals of federal grant programs intended to benefit overburdened communities. Federal agencies have an opportunity to mitigate and, when possible, remove this barrier to increase equitable access to federal grant funding for communities most in need of federal resources. Six recommendations for federal policymakers to address the barrier of non-federal match requirements are discussed below.

Non-Federal Match Requirements are a Barrier to Equity and Environmental Justice

Most federal grant programs require that the grant recipient contribute a portion of the total project amount, often 20 percent, from non-federal sources, as a requirement to receive the federal portion of the grant funding. The rationale often provided by agencies and congressional appropriators for requiring non-federal matching funds is to demonstrate local interest and financial stake and to reduce total federal expenditures on a program by attracting other sources

[vi] This report uses "overburdened communities" to refer to any community or population in the United States that has faced inequitable barriers to accessing federal grant funding. While each community experiences unique circumstances and may identify with varying terminology, for the purposes of this report, overburdened communities are those that experience disproportionate environmental harms; social, economic, and health inequities; greater vulnerability to the impacts of climate change; and inequitable distribution of federal funding. See the call-out box on page 7 for more details.

of funding for projects. However, for communities that already face funding constraints and other challenges, the non-federal match requirement can keep them from receiving federal funding for critical projects and programs.[2]

While many grant programs have statutorily required non-federal match requirements that would require congressional action to change, other grant programs provide greater discretion to the implementing agency. For example, agencies may have statutory authority to issue “non-federal match waivers,” exempting specific communities, geographies, or project types from non-federal match funding requirements. Additionally, agencies can increase transparency about non-federal match requirements and match waiver processes, provide technical assistance, and engage with federal appropriators on the statutory design of grant programs.

Federal Policy Recommendations

As the Biden Administration and federal agency officials implement federal funding programs in ways that are consistent with the Justice40 Initiative and other policies, they have several opportunities to reduce the barrier of non-federal match requirements to support projects in overburdened communities, including:

1. Explore opportunities under existing statutory authority to reduce or waive non-federal match requirements;
2. Update agency grant navigators and resources to increase awareness of match requirements and agency flexibility;
3. Streamline the non-federal match requirement waiver application process;
4. Include support for non-federal match requirements in technical assistance to federal grant applicants;
5. Engage with congressional appropriators regarding statutory requirements for non-federal match requirements; and
6. Update Justice40 Guidance to provide direction to agencies regarding non-federal match requirements.

I. Introduction

The systemic lack of government resources for overburdened communities is a significant contributor to social, racial, and economic injustice in the United States. To address the decades-long and ongoing disparities in access to government funding for these communities, in 2021, the Biden Administration established the Justice40 Initiative (Justice40), which set a goal that 40 percent of the benefits of certain federal funding[vii] go to "communities that are marginalized, underserved, and overburdened by pollution."[3]

A Note on the Term "Overburdened Communities" in this Report

This report uses "overburdened communities" to refer to any community or population in the United States that has faced inequitable barriers to accessing federal grant funding. While each community experiences unique circumstances and may identify with varying terminology, for the purposes of this report, overburdened communities are those that experience disproportionate environmental harms; social, economic, and health inequities; greater vulnerability to the impacts of climate change; and inequitable distribution of federal funding. Local governments and organizations within overburdened communities may be eligible for match requirement flexibilities, depending on the grant program. The term "overburdened communities" in this report is not a reference to a single defined term in federal or state law, but may be read to include the following federal definitions and designations for communities, among others:

- The Environmental Protection Agency (EPA) uses the term "overburdened communities" to describe "Minority, low-income, tribal, or indigenous populations or geographic locations in the United States that potentially experience disproportionate environmental harms and risks. This disproportionality can be as a result of greater vulnerability to environmental hazards, lack of opportunity for public participation, or other factors. Increased vulnerability may be attributable to an accumulation of negative or lack of positive environmental, health, economic, or social conditions within these populations or places. The term describes situations where multiple factors, including both environmental and socioeconomic stressors, may act cumulatively to affect health and the environment and contribute to persistent environmental health disparities." U.S. Environmental Protection Agency, "EJ 2020 Glossary."

[vii] Much of the federal funding covered by the Justice40 initiative is for programs that reduce pollution, provide clean energy, or increase access to low-carbon transportation.

- The White House Environmental Justice Advisory Council defined an "environmental justice community" as "a geographic location with significant representation of persons of color, low-income persons, indigenous persons, or members of Tribal nations, where such persons experience, or are at risk of experiencing, higher or more adverse human health or environmental outcomes." White House Environmental Justice Advisory Council, "Final Recommendations: Justice40 Climate and Economic Justice Screening Tool & Executive Order 12898 Revisions" at 79 (May 2021).

- The Biden Administration's Justice40 Initiative identifies "disadvantaged communities," using a variety of environmental, social, and economic indices related to climate change, energy, health, housing, legacy pollution, transportation, water and wastewater, and workforce development. Note, "to respect Tribal sovereignty and self-government and to fulfill Federal trust and treaty responsibilities to Tribal Nations, land within the boundaries of Federally Recognized Tribes are designated as disadvantaged on the map." Council on Environmental Quality, Climate and Economic Justice Screening Tool; Office of Management and Budget, "Interim Implementation Guidance for the Justice40 Initiative," M-21-28 (July 20, 2021).

However, there are substantial administrative and financial barriers to receiving federal funding that may limit the ability of overburdened communities to benefit from federal programs. One major barrier is that many federal grant programs require each grant recipient to contribute financial or other resources for a certain percentage of the project cost – a "non-federal match requirement" or "cost share,"[viii] in order to qualify for the grant.[4] This non-federal share is often approximately 20 percent of the total project cost, and for large grants, can total in the millions of dollars. For communities that already face funding constraints and other challenges, the non-federal match requirement can keep them from receiving federal funding for critical projects and programs.[5]

The Georgetown Climate Center prepared this report to highlight the opportunity for federal agencies to mitigate and, when possible, remove this barrier to equitable access to federal grant funding for overburdened communities. While many grant programs have statutorily required non-federal match requirements, which would require congressional action to change, other grant programs provide greater discretion to the implementing agency. For example, agencies

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[viii] This paper uses "non-federal match requirement," "match requirement," or "cost share" to describe a statutory, regulatory, or other requirement that a grant recipient contribute financial or other resources for a certain percentage of the project cost when receiving federal funding. "Match requirement" and "cost sharing" are used interchangeably in federal statutes and regulations. *See* 2 C.F.R. § 200.306 and OMB Circular A-122, codified as 2 C.F.R. § 230.

may have statutory authority to waive or reduce the match requirement for specific communities, geographies, or project types.

This report provides an overview of federal grant funding programs and their non-federal match requirements, includes case studies of the non-federal match requirements for specific grant funding programs implemented by the U.S. Department of Transportation (DOT), U.S. Department of Energy (DOE), and U.S. Environmental Protection Agency (EPA), and offers policy considerations for federal officials.

II. Federal Funding, Match Requirements, and Equity Considerations

Overview of Federal Funding to State, Local, and Tribal Governments

The federal government provides hundreds of billions of dollars in funding to states, Tribal governments, and local communities each year.[6] One primary means of federal assistance is grant programs. Over 1,000 federal grant programs fund a broad range of services and infrastructure implemented by state governments, local governments, U.S. territories, federally recognized Tribal governments, and other eligible recipients (such as community-based organizations), including for transportation, energy, and pollution reduction programs.[7] "Formula" grants allocate funding to states and local jurisdictions through formulas generally established in statutes, and "discretionary" grants are awarded to qualified recipients by an implementing federal agency following completion of a competitive application process.[8] According to actual and estimated trends in federal grants to state and local governments, formula grants make up approximately 70 percent of federal grants, with discretionary grants accounting for approximately 30 percent of total federal grant spending.[ix]

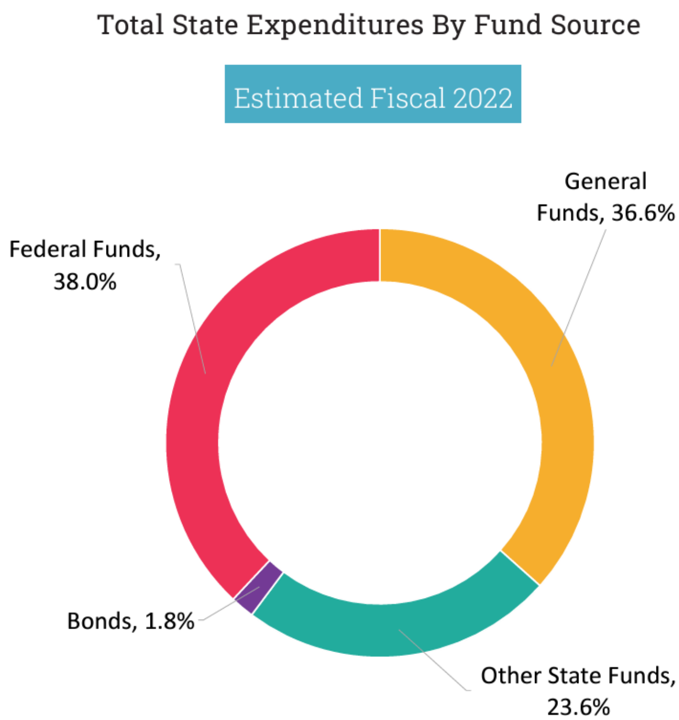
Federal Funding for State Governments

On average, federal grants make up over one-third of state budgets, with 38 percent of total state government spending coming from federal funds in 2022.[9] The importance of federal funding to states has increased in recent years with the passage of major federal legislation such as the American Rescue Plan Act and the Bipartisan Infrastructure Law (BIL, or Infrastructure

[ix] Discretionary grants, totaling $327 billion, make up an estimated 31 percent of federal grant programs for FY 2023. The White House, "Aid to State and Local Governments" at 205-207 (last accessed Jan. 26, 2023) https://www.whitehouse.gov/wp-content/uploads/2022/03/ap_14_state_and_local_fy2023.pdf.

Investment and Jobs Act).[10] Of the total proposed federal grant funding to states in 2023, 56 percent was for health programs; 16 percent for income security programs; 10 percent for transportation programs; 8 percent for education, training, and social services; and 9 percent for all other functions.[11]

Figure 1: State Expenditures in 2022



In 2022, an estimated 38 percent of total state government spending came from federal funds. Source: National Association of State Budget Officers[12]

Federal Funding for Local Governments

Local governments also benefit from federal grants, either directly from federal programs, or via pass-through funding. Pass-through funding involves federal grants being awarded to state governments, which then make subawards to other organizations – including local governments – to carry out the purpose of the grant program.[13] In 2017, local governments received approximately 32 percent of their general revenue from state government transfers (including indirect federal funds) and 4 percent directly from the federal government.[14] The state transfers were mostly for education programs (about two thirds), while the largest share of direct federal transfers (40 percent) was for housing programs.[15]

Federal Funding for Tribal Governments

The U.S. government officially recognizes[x] 574 Tribal entities in the contiguous 48 states and Alaska,[16] and federal agencies provide an array of services and benefits to these Tribes.[xi] Federal agencies may provide services directly to Tribes or may award discretionary or pass-through grants to Tribes.[17] Federally recognized Tribes are eligible for funding and services mainly from the U.S. Bureau of Indian Affairs (BIA), either through BIA-administered programs or through contracts, grants, or compacts.[xii] These contracts, grants, and compacts make up approximately 68 percent of BIA funding and are used for a wide range of programs and services, including social services, job training, schools, housing, and land management.[18] The remaining BIA funding, approximately 32 percent, goes to operate the Office of Indian Services, the Office of Justice Services, the Office of Trust Services, and the Office of Field Operations.[19] In addition, other agencies such as the Federal Transit Administration[20] and EPA[21] provide grant programs specifically for Tribal governments or for which Tribal governments are eligible. For 2024, the BIA budget is $3.0 billion, including $2.3 billion for the Operation of Indian Programs account.[xiii] Depending on the grant program, Tribal organizations may be subject to the same or different match requirements and flexibilities as other applicants. For some IRA grant programs, Tribal organizations are not subject to any match requirements.[22]

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[x] The term "recognize" means the "federal government acknowledges that a particular Native American group is a tribe by conferring specific legal status on that group, establishing a government-to-government relationship between the United States and the tribe, imposing on the government a fiduciary trust relationship to the tribe and its members and imposing specific obligations on the government to provide benefits and services to the tribe and its members." U.S. Government Accountability Office, "Tribal Funding, Actions Needed to Improve Information on Federal Funds that Benefit Native Americans" at 5 (May 2022) https://www.gao.gov/assets/gao-22-104602.pdf.

[xi] The required federal services are based on the political status of federally recognized Tribes and their members. U.S. Government Accountability Office, "Tribal Funding, Actions Needed to Improve Information on Federal Funds that Benefit Native Americans" at 5 (May 2022) https://www.gao.gov/assets/gao-22-104602.pdf.

[xii] Directly means that the services are administered and managed by BIA instead of administered by the Tribe. Contracts and compacts authorize the Tribes to take over the administration of certain federal programs previously administered by agencies. U.S. Government Accountability Office, "Indian Programs: Interior Should Address Factors Hindering Tribal Administration of Federal Programs" (Jan. 2019) https://www.gao.gov/assets/gao-19-87.pdf.

[xiii] The Operation of Indian Programs account includes programs that support Tribal governments through contracts, compacts, and grants. U.S. Department of the Interior, "Fiscal Year 2024: The Interior Budget in Brief," Bureau Highlights: Bureau of Indian Affairs at BIA-1 (Mar. 2023) https://www.doi.gov/media/document/fy2024-bib-entire-book-508-pdf.

Federal Funding for Community Organizations

Community-based organizations (CBOs) are non-profit organizations representative of a community or members of a community that provide services to the community.[23] CBOs provide a wide range of social and economic services, and are particularly valuable in communities that have been traditionally excluded from established community financial investment.[24] CBOs rely on state and federal funding, in addition to charitable donations, to provide their services.[xiv] CBOs can receive funding directly from the federal government, or pass-through funding awarded by state or local governments.[25]

Non-Federal Funding Match Requirements

Most federal grant programs require that the grantee contribute a portion of non-federal funds to "accomplish the purposes of the grant."[26] The rationale often provided by agencies and congressional appropriators for requiring non-federal matching funds is to "assure local interest and involvement through financial participation."[27] Match requirements may also decrease total federal costs for a project and attract other sources of funding,[28] including from state and local governments and non-governmental partners.[xv]

The specific requirements of the non-federal funding for a grant, such as the source of the match, percentage required, and other qualifications, vary depending on the program. As a general rule, federal funds received through another federal grant or form of financial assistance cannot be used to fulfill non-federal match requirements. However, as described below, several recently enacted federal funding programs provide exceptions to this rule. Additionally, match requirements are not limited to cash matches, with most programs allowing grant recipients to provide in-kind matches, such as equipment and supplies, real or personal property (e.g., office space), workshop or training materials, monetary value of time contributed by volunteers (technical, administrative, skilled or unskilled labor), and other services.[29]

[xiv] CBOs also look to corporations and private foundations to meet cash and other resource needs, such as food, furniture, and staff. U.S. Department of Health and Human Services, "Maximizing Program Services Through Private Sector Partnerships and Relationships" at 1 (Feb. 2006) https://www.samhsa.gov/sites/default/files/partnerhandbook_feb2006.pdf.

[xv] According to this U.S. Government Accountability Office: "The fiscal lure of Federal grants entices State and local governments into allocating new resources to satisfy the non-Federal match for programs they otherwise would not have funded on their own. While State and local jurisdictions may not be willing or able to fully fund a program from their own resources, they would most likely agree to spend new resources on the same project if most of the project costs were paid by the Federal Government." U.S. Government Accountability Office, "Proposed Changes in Federal Matching and Maintenance of Effort Requirements for State and Local Governments," at 9 (Dec. 23, 1980) https://www.gao.gov/assets/ggd-81-7.pdf.

Barriers to Federal Funding for Overburdened Communities

Overburdened communities have long been disadvantaged by federal funding programs, which has directly contributed to racial and socio-economic inequality. For example, in the practice known as "redlining," the U.S. Federal Housing Administration and other federal agencies restricted or prohibited services such as credit lending or insurance in or near African American communities.[30] Although redlining was outlawed by the Fair Housing Act of 1968 and the Equal Credit Opportunity Act of 1974,[31] the effects of redlining and other discriminatory government policies persist today, and communities of color continue to be overburdened by pollution and underserved by government programs, including for transportation,[32] education,[33] and drinking water.[34]

Ensuring that federal funding goes directly to overburdened communities is critical to remedying this systemic inequality.[xvi] Additionally, meaningful participation in the design of funding programs can support successful implementation in those communities, as community members are already equipped with firsthand knowledge of the issues they encounter.[35] For Tribal communities, it has been shown that agency consultations with Tribal leaders have provided "robust firsthand, specific information" that has improved federal understanding of Tribal community needs.[36]

The Justice40 Initiative and the Biden Administration's Equity and Environmental Justice Goals

The Justice40 Initiative aims to provide 40 percent of the overall benefits[xvii] of federal investments relating to climate change, clean energy, and other areas to "disadvantaged

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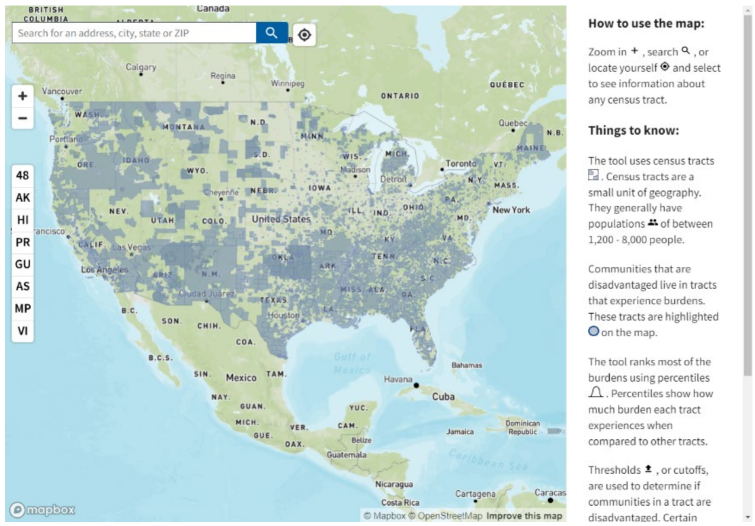
[xvi] Without appropriating money directly to those overburdened communities, federal investments on their own may be insufficient, "given the bias and ambivalence of many state and local governments, and the systemic racial bias, inertia, and resistance to change that we must never underestimate." Cathleen Kelly and Mikyla Reta, "Implementing Biden's Justice40 Commitment To Combat Environmental Racism" (June 22, 2021) https://www.americanprogress.org/article/implementing-bidens-justice40-commitment-combat-environmental-racism/, citing White House Environmental Justice Advisory Council, "Final Recommendations: Justice40 Climate and Economic Justice Screening Tool & Executive Order 12898 Revisions," Chair Cover Letter at 6 (May 21, 2021). *See also* Equitable and Just National Climate Platform, Center for American Progress, and Tishman Environment and Design Center, "Justice40 Recommendations" at 7 (2021) https://americanprogress.org/wp-content/uploads/sites/2/2021/03/Justice40-Recommendations.pdf.

[xvii] The benefits calculated for Justice40 include reduction of greenhouse gas emissions and other air pollutants, creating community resilience plans, establishing community microgrids, increased participation by community members in clean energy training and employment, etc. Office of Management and Budget, "Interim Implementation Guidance for the Justice40 Initiative," M-21-28 at 4-6 (July 20, 2021) https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf.

communities,"[xviii] defined as marginalized, underserved, and overburdened by pollution.[37] Justice40 was established by the Biden Administration through the Executive Order on *Tackling the Climate Crisis at Home and Abroad*,[38] which was issued on January 17, 2021, following decades of advocacy by environmental justice and equity-focused organizations.

Figure 2: The Climate and Economic Justice Screening Tool



Federal agencies identify disadvantaged communities using the Climate and Economic Justice Screening Tool. Source: White House Council on Environmental Quality[39]

The Executive Order, which recognized the importance of environmental justice and the need to correct the historic underinvestment in "disadvantaged" communities,[40] established several initiatives and advisory bodies, including the White House Environmental Justice Interagency Council, the White House Environmental Justice Advisory Council, and the government-wide Justice40 Initiative.[41]

As of the publication of this report, over 450 programs are covered by Justice40[xix] across 13 different agencies, including programs related to "climate change, clean energy and energy

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[xviii] Federal agencies use the Climate and Economic Justice Screening Tool to identify disadvantaged communities. The tool classifies census tracts as disadvantaged using environmental, climate, and socioeconomic indicators. The White House, Addendum to the Interim Implementation Guidance for the Justice40 Initiative, M-21-28, on using the Climate and Economic Justice Screening Tool (CEJST), M-23-09 (Jan. 27, 2023) https://www.whitehouse.gov/wp-content/uploads/2023/01/M-23-09_Signed_CEQ_CPO.pdf; Council on Environmental Quality, "Methodology" (last accessed Jan. 23, 2023) https://screeningtool.geoplatform.gov/en/methodology.

[xix] A Justice40 Initiative "covered program" is a federal government program included in the Justice40 Initiative because it makes "covered investment benefits" that benefit disadvantaged communities across one or more of

efficiency, clean transit, affordable and sustainable housing, training and workforce development, remediation and reduction of legacy pollution, and the development of critical clean water and wastewater infrastructure."[42] The covered programs were identified by the implementing agencies according to criteria established by Interim Implementation Guidance for the Justice40 Initiative, which also identified 21 pilot programs for initial implementation.[43]

In addition to implementing Justice40, many federal agencies are undertaking new initiatives to advance equity and environmental justice across their policies and programs. For example, in September 2022 EPA created a new Office of Environmental Justice and External Civil Rights to oversee the implementation of Justice40 and delivery of grant programs.[44]

Non-Federal Match Requirements as a Barrier to Equity and Environmental Justice

While well intentioned,[xx] non-federal match requirements can serve as a barrier to achieving the goals of federal grant programs intended to benefit overburdened communities. Non-federal match requirements may create a cycle where communities already lacking funding are consistently hindered in receiving the benefits of future federal funding.[45]

Organizations working with and in overburdened communities have called on federal grant administrators to forgo match requirements. A comment letter on EPA's Environmental and Climate Justice Block Program from the African American Alliance of CDFI CEOs stated that match requirements would "only exacerbate environmental and climate injustices faced by residents of disadvantaged communities."[46] In a 2021 letter to Congress from the American Indian and Alaska Native (AI/AN) organizations, which collectively serve federally recognized Tribal governments, the AI/AN organizations asked Congress to not include competitive grants and match requirements in the Tribal government provisions of the then-under-development infrastructure bills.[47]

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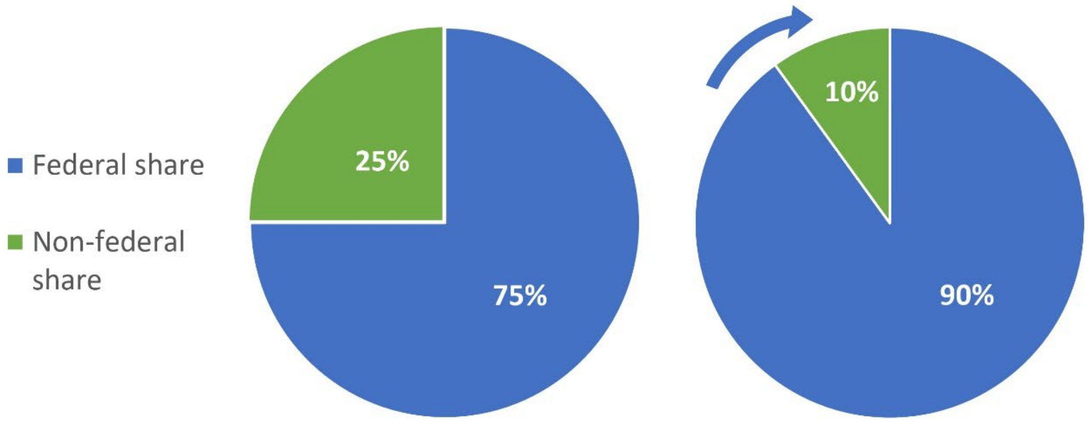
the following areas: climate change, clean energy and energy efficiency, clean transit, affordable and sustainable housing, training and workforce development, remediation and reduction of legacy pollution, and the development of critical clean water and wastewater infrastructure. Federal agencies work with the Office of Management and Budget to review and determine which programs are "covered programs." Office of Management and Budget, "Interim Implementation Guidance for the Justice40 Initiative," M-21-28 at 3 (July 20, 2021) https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf.

[xx] As noted above, non-federal match requirements are often imposed by Congressional appropriators and other government administrators to encourage the leveraging of federal funds, as well as to promote dedication on the part of federal funding recipients. U.S. Government Accountability Office, "Principles of Federal Appropriations Law" at 10-94 (Feb. 2006) https://www.gao.gov/assets/2019-11/202819.pdf.

Figure 3: The Cost Share Breakdown for Federal Grants



In a typical cost share breakdown, the federal government covers 75% - 80% of the project cost. Reducing or eliminating the non-federal share helps disadvantaged and low-income communities access federal funds. For example, FEMA's Building Resilient Infrastructure and Communities (BRIC) program reduces the non-federal share to 10% for small and impoverished communities.[48]

In addition to being a barrier to overburdened communities, non-federal match requirements create an advantage for larger organizations and projects and better resourced applicants.[49] A U.S. Government Accountability Office analysis of proposed changes to non-federal match requirements found that when the grantees are fiscally poor, small organizations, or lack extensive existing investments, match requirements could be a "severe fiscal burden" and "deter widespread distribution of federal funds."[50] This inequity is also experienced by some Tribal communities, who have stated that wealthier, well-resourced Tribal governments and organizations are more successful with receiving new federal funding.[xxi]

As an example, in response to a request for comments by AmeriCorps regarding match requirements, multiple respondents stated that some programmatic areas have "less

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[xxi] For example, wealthier Tribal governments and organizations are able to hire grant writers and technical consultants, while Tribes with lower capacity do not have sufficient resources. Performance.gov, "Understanding Tribal Nations Experiences Accessing Federal Grants" https://www.performance.gov/cx/life-experiences/understanding-tribal-experiences-accessing-grants/; see Aleksandra "Sasha" George Ruiz, "A Call from Communities to Remove Barriers to Access EPA's EJ Grants," The State Energy & Environmental Impact Center (Apr. 27, 2023) https://stateimpactcenter.org/insights/a-call-from-communities-to-remove-barriers-to-access-epas-ej-grants.

opportunity and competitiveness to secure match funds due to the disadvantaging mechanisms of location, capacity, history, [and] injustice," leaving programs and services without the ability to match with "meaningful needs unmet in communities across the country."[51] Additionally, one organization responded that one reason not to support match requirements is that, even though match requirements offer the alternatives of in-kind requirements as opposed to cash requirements, organizations spend a significant amount of time and resources gathering and documenting in-kind matches, which are "burdensome" and "do not add benefit to program implementation."[52]

III. Analysis: Current Federal Agency Practices for Non-federal Match Requirements

The parameters defining the non-federal match requirements for a grant (e.g., required cost share and the authority of the administering agency to provide waivers or exemptions) are often explicitly included in a grant's authorizing statute. In other cases, the statute may be silent, or the agency may have greater discretion to waive match requirements.[xxii]

Office of Management and Budget Match Requirement Guidance

The Office of Management and Budget (OMB) has issued guidance for implementing agencies related to match requirements. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) establishes a government-wide framework for grants management for federal awards.[53] The Uniform Guidance applies to federal agencies that "mak[e] Federal awards to non-Federal entities," and federal agencies making these awards must implement their programs in a manner consistent with the language of the Guidance "unless different provisions are required by Federal statute or are approved by OMB."[54]

The Uniform Guidance provides additional direction related to exemptions and waivers of match requirements, specifying that, in its announcement of a grant program, an agency must state

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[xxii] A federal grant program's authorizing statute may provide for full funding for a grant recipient's proposed project, or it may provide for "cost-sharing" by requiring a match of non-federal funds. Courts have held that it is within Congress' authority to make this determination. "[T]he judgment whether to [provide assistance], and to what degree, rests with [Congress]." City of New York v. Richardson, 473 F.2d 923, 928 (2nd Cir.), cert. denied sub nom., 412 U.S. 950 (1973).

whether there is required cost sharing[xxiii] (i.e., if an application would be ineligible without a non-federal match). Further, the Uniform Guidance states "[i]f cost sharing is not required, the announcement must explicitly say so."[55] The announcement must be clear about any restrictions on the types of cost (e.g., in-kind contributions) that are acceptable as cost sharing.[56]

Examples of Non-Federal Match Requirements in Selected Programs

In practice, non-federal match requirements differ significantly among agencies and grant programs. To provide an illustrative example of match requirements in federal programs intended to advance equity and environmental justice, this section summarizes the match requirements and any criteria for waiving those requirements for a selection of Justice40 programs administered by DOT, EPA, and DOE.

Department of Transportation: Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Program

The Department of Transportation's Rebuilding American Infrastructure with Sustainability and Equity (RAISE) program[57] provides funding to help urban and rural communities advance projects that "modernize roads, bridges, transit, rail, ports, and intermodal transportation and make our transportation systems safer, more accessible, more affordable, and more sustainable."[58] This $1.5 billion competitive grant program, allocated annually from FY 2022 through FY 2026, provides funding directly to public entities, including municipalities, counties, port authorities, Tribal governments, and metropolitan planning organizations.[59]

RAISE, which is included in Justice40, is an example of a grant program that explicitly allows a waiver for the non-federal match requirement. As directed by statute,[60] applicants for a RAISE grant are required to provide a non-federal match for at least 20 percent of the total project cost.[xxiv] However, the authorizing statute[61] confers upon the Secretary discretion to make an

[xxiii] OMB states that cost sharing or matching means the portion of project costs not paid by federal funds or contribution. 2 C.F.R. 200.1.

[xxiv] The non-federal financial contributions can include state, local, and private sector funding or other forms of cost share. U.S. Department of Transportation, "FY 2023 RAISE Grants Notice of Funding Opportunity" at 12, 13 (last updated Feb. 3, 2023) https://www.transportation.gov/sites/dot.gov/files/2023-02/RAISE%202023%20NOFO%20Amendment2.pdf.

exception for eligible projects carried out in a rural area, a "historically disadvantaged community,"[xxv] or an "area of persistent poverty. "[xxvi]

The RAISE program is different from other DOT Justice40 programs, which typically do not mention "disadvantaged communities" when defining exceptions in their federal cost share requirements. Additionally, the RAISE program is notable because it adjusts the definition of 'non-federal' share to include certain federal funding.[xxvii] Such adjustments may help some grant applicants meet cost share requirements, but may be less impactful for communities who lack access to other sources of federal funding, particularly smaller communities, organizations, and localities.

While the DOT program announcement does not state how many waivers were issued to projects eligible for an exception, DOT does state that "[s]eventy percent of the grants are going to projects in regions defined as an Area of Persistent Poverty or a Historically Disadvantaged Community."[62]

[xxv] DOT Definition of "Historically Disadvantaged Communities":

1. The project is located in certain qualifying census tracts; OR
2. The project is located on Tribal land; OR
3. The project is located in any territory or possession of the United States.

U.S. Department of Transportation, "FY 2023 RAISE Applications FAQs" (last updated Jan. 25, 2023) https://www.transportation.gov/RAISEgrants/raise-application-faqs.

[xxvi] DOT Definition of "Area of Persistent Poverty":

1. "the County in which the project is located consistently had greater than or equal to 20 percent of the population living in poverty in all three of the following datasets: (a) the 1990 decennial census; (b) the 2000 decennial census; and (c) the 2020 Small Area Income Poverty Estimates"; OR
2. "the Census Tract in which the project is located has a poverty rate of at least 20 percent as measured by the 2014-2018 5-year data series available from the American Community Survey of the Bureau of the Census"; OR
3. "the project is located in any territory or possession of the United States."

U.S. Department of Transportation, "FY 2023 RAISE Applications FAQs" (last updated Jan. 25, 2023) https://www.transportation.gov/RAISEgrants/raise-application-faqs.

[xxvii] The BIL allows for the following Federal funds to be considered "non-Federal" for the purpose of the RAISE program: "(A) tribal transportation program funds under section 202 of title 23; (B) Federal lands transportation program funds under section 203 of title 23; (C) TIFIA program funds (as defined in section 601(a) of title 23); and (D) Railroad Rehabilitation and Improvement Financing Program under chapter 224." The extent to which such flexibilities assist applicants in accessing new funding depends on whether applicants can access the federal funding that is eligible to be used for the non-federal share. U.S. Department of Transportation, "Justice40 Non-Federal Match Flexibility" (last updated Aug. 16, 2023) https://www.transportation.gov/grants/dot-navigator/justice40-non-federal-match-flexibility.

Environmental Protection Agency: Community Grants Program

In FY 2023, Congress appropriated funds for community water infrastructure projects (EPA Community Grants) totaling $1.47 billion for 715 projects under the Consolidated Appropriations Act.[63] These projects are competitive grants designated for the planning, design, and construction of drinking water, wastewater, and stormwater infrastructure and for water quality protection.[64]

The EPA Community Grants are an example of a program where a federal agency has been given broad statutory discretion to determine exceptions to non-federal match requirements. Generally, the non-federal cost share for this program is 20 percent.[xxviii] Using its authority under the Consolidated Appropriations Act, which states a "grantee shall contribute not less than 20 percent of the cost of the project *unless the grantee is approved for a waiver by the Agency*," [emphasis added],[65] EPA elected to waive the cost share for projects located in, or that primarily serve, defined disadvantaged communities.[xxix] This criteria for waiving the cost share for "disadvantaged communities" was determined by EPA itself and was not directly included in the authorizing statute.[66]

These waivers must be approved by EPA's Assistant Administrator for Water, in accordance with EPA's Delegation of Authority 1-102.[67] Recipients requesting cost share waivers are submitted by a written request to the Regional EPA Project Officer for consideration, which needs to include

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[xxviii] Non-federal funds including from public sources, private sources, and in-kind services are eligible to meet the cost share requirement. U.S. Environmental Protection Agency, "Community Grants Program: FY 2023 Final Implementation Guidance" at 3-4 (Apr. 2023) https://www.epa.gov/system/files/documents/2023-05/FY23-Community-Grants-Final%20Implementation-Guidance.pdf.

[xxix] EPA's Cost Share Waiver Criteria:

a) Community median household income (MHI) is less than 80% of state MHI
b) Communities with $25,766 or less upper limit of Lowest Quintile Income
c) Communities with ≥ 30.9% population living under 200% of the poverty level
d) Communities within census tracts that have a poverty rate greater than or equal to 20%
e) Communities with combined sewer and drinking water costs that are greater than 2% of the 20th percentile household income
f) Communities with ≥ 11.7% population receiving food stamps/SNAP benefits

Cost Share Waiver Criteria A – F was developed by EPA "for the purposes of assessing the appropriateness of waiving the cost share requirement for the 715 drinking water, wastewater, stormwater infrastructure, and water quality protection projects identified in the FY2023 Consolidation Appropriations Act, based on EPA's Memorandum: Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law, March 8, 2022." U.S. Environmental Protection Agency, "Community Grants Program: FY 2023 Final Implementation Guidance" at 6 (Apr. 2023) https://www.epa.gov/system/files/documents/2023-05/FY23-Community-Grants-Final%20Implementation-Guidance.pdf.

applicable Cost Share Waiver Criteria(s) and any related supporting documentation including source data retrieved from the Census Bureau.[68]

Department of Energy: State Energy Program

The Department of Energy's (DOE) State Energy Program (SEP) contains both formula and competitive grants that provide "funding and technical assistance to states, territories, and the District of Columbia to enhance energy security, advance state-led energy initiatives, and increase energy affordability."[69] The SEP is covered by Justice40.[70]

The State Energy Program provides an example of a federal grant program where cost sharing requirements were modified by new legislation. Prior to the BIL, the SEP required matching funds of 20 percent each year of the grant,[71] except in the case of the Insular Areas of the Virgin Islands, Guam, American Samoa, and the Government of the Northern Mariana Islands, for which the program included a non-federal match waiver.[72] The BIL eliminated the SEP's match requirement for states. Following this legislative change, DOE released a program notice that stated cost share requirements were eliminated until 2027, and states were not required to contribute matching funds to receive their 2022 allocations for the program.[73]

Overview of Non-Federal Match Provisions in Recent Federal Legislation

The Bipartisan Infrastructure Law (BIL) and Inflation Reduction Act (IRA) have significantly increased federal funding for transportation and other infrastructure, clean energy projects, environmental pollution controls, and other critical programs. This historic federal investment presents a unique opportunity to advance equity and environmental justice. The BIL and the IRA each include funding for new and existing federal grant programs, many of which will be awarded to state, local, and Tribal governments, and each piece of legislation includes particular provisions to advance equity and prioritize funding programs for environmental justice communities.

Bipartisan Infrastructure Law

The Bipartisan Infrastructure Law (BIL), enacted November 15, 2021, authorizes $1.2 trillion for transportation and infrastructure spending, addressing multiple issues such as energy and power infrastructure, access to broadband internet, water infrastructure, and more.[74] The BIL uses varying language for match requirements depending on the administering agency and intended grant recipients, with various programs providing:

- Match waivers for defined communities;
- Match waivers for Tribal governments;
- Broad discretion to agency secretaries for granting waivers; and

- Use of federal funds to meet a different federal grant's match requirement.

Many BIL programs carve out an exception to non-federal match requirements for various defined overburdened communities. For example, some grant programs include language allowing the Secretary of the agency administering the program to grant 100 percent federal share of cost for "communities with a poverty rate of over 40 percent based on the majority of census tracts,"[75] or "project[s] carried out in a rural area, a historically disadvantaged community, or an area of persistent poverty."[76] Exceptions for non-federal cost shares were also created for Tribal communities, with some grant programs amended to explicitly provide a federal cost share of 100 percent,[77] and some requiring the determination of the Secretary.[78] In other programs, such as the Preventing Outages and Enhancing the Resilience of the Electric Grid Grants administered by DOE, Tribal governments and states have the same 15 percent non-federal cost share requirement.[79]

In addition to providing explicit waivers for specific groups or communities, the BIL also includes several programs for which the Secretary of the administering agency is given broad discretion in statute to grant waivers of non-federal match requirements. Examples of this type of statutory authorization for DOT programs include:

- **Transit Planning Programs**: "unless the Secretary determines that it is in the interests of the Government— '(A) not to require a State or local match; or (B) to allow a Government share greater than 80 percent'"[80];
- **Increasing Safe and Accessible Transportation Options Program**: "unless the Secretary determines that the interests of the… program would be best served by decreasing or eliminating the non-Federal share"[81]; and
- **Healthy Streets Program**: for "projects carried out by an eligible entity that demonstrates economic hardship, as determined by the Secretary."[82]

Notably, some grant programs in the BIL also allow federal funds to be used to fulfill a program's match requirements (rather than non-federal funds),[83] which helps applicants that have access to other sources of federal funding meet cost share requirements.

Inflation Reduction Act

The Inflation Reduction Act, enacted August 16, 2022, provides $600 billion in federal funding related to climate change, environmental justice, health care, and clean energy.[84] While the IRA does not mention match requirements in significant detail, it does include a non-federal match exemption for " disadvantaged or underserved communit[ies]" in the Neighborhood Access and Equity Grant Program, which includes $3 billion for grants to transportation projects, $1.2 billion of which is explicitly intended for the benefit of "disadvantaged communities."[85] Additionally, several of the programs dedicated to assisting Tribal communities are not subject to any match requirements.[86]

Recent Federal Agency Actions Related to Non-Federal Match Requirements

Biden Administration Efforts

The Biden Administration has undertaken several initiatives to ensure that federal funding reaches overburdened communities, including developing guides to help communities and other potential grant recipients access federal funding. For example, after the enactment of BIL, the White House released a Bipartisan Infrastructure Law Rural Playbook (Rural Playbook) and a Bipartisan Infrastructure Law Tribal Playbook (Tribal Playbook) aimed at helping rural areas and Tribal communities unlock the benefits from BIL programs.[87]

The BIL dedicates billions of dollars to Tribal communities to provide services such as affordable high-speed internet, safer roads and bridges, clean drinking water, and reliable and affordable electricity in every Tribal community.[88] As part of this effort, the Biden Administration has expressed its commitment to working with Tribal communities to help them access federal resources, including overcoming barriers posed by non-federal match requirements.[89] The Tribal Playbook provides transparency by listing several programs that either do not have non-federal match requirements for Tribes or offer waivers for Tribal applicants.[90]

Similarly, the Rural Playbook includes an overview of key flexibilities and other benefits available to rural communities under the BIL, including a resource identifying more than 100 programs funded under the law with federal cost share flexibilities or match requirement waivers.[91] As part of this effort, seven federal agencies published rural factsheets that highlight how to leverage agency resources and capabilities to help rural communities.[92] The Playbook highlights two new programs, the Broadband Equity, Access, and Deployment Program[93] and the Clean School Bus Program,[94] for which the respective administering agencies have discretion to waive the cost share requirements for overburdened communities.[95]

In addition, the Biden Administration is making it easier for underrepresented communities in U.S. territories to apply for funds.[xxx] On February 9, 2023, OMB directed all agencies and departments to waive for the territories all cost share requirements under $200,000 with an

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[xxx] The territories include American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and U.S. Virgin Islands. U.S. Department of the Interior, "Biden-Harris Administration Announces Move to Reduce Financial Burden on U.S. Territories" (Feb. 8, 2023) https://www.doi.gov/pressreleases/biden-harris-administration-announces-move-reduce-financial-burden-us-territories.

option to also waive match requirements for grants greater than $200,000.[96] Department of the Interior Secretary Deb Haaland stated that this policy was passed to ensure "territorial governments will have greater flexibility to access federal funds, further equipping them to upgrade critical infrastructure and invest in climate resilience."[97]

Non-federal Match Requirement Flexibilities Related to Federal Disaster and Emergency Declarations

Federal agencies can take actions in response to disaster or emergency declarations to waive match requirements or provide other non-federal match requirement flexibilities in order to advance equitable programs and benefit overburdened communities. Since 2020, the Biden Administration and the Federal Emergency Management Agency (FEMA) have frequently exercised existing authority to modify cost share requirements for disaster assistance. Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act),[98] the President has the authority to increase the federal cost share for public assistance at his or her discretion.[99] In "extraordinary" cases, such as Hurricane Katrina, FEMA can also recommend increasing the federal cost share for public assistance.[100] The Consolidated Appropriations Act of 2022 granted a minimum 90% cost share for all major disasters and emergencies declared in 2020 and 2021.[101] In 2023, President Biden increased the federal cost-share from the standard 75% to 90% for several individual disasters and emergencies, such as Hurricane Ian and the winter storms and mudslides experienced by the Hoopa Valley Tribe.[102]

In response to the COVID-19 pandemic, the federal government updated policies and practices related to non-federal match requirements, including by authorizing newly available funding to state governments as eligible non-federal match. The BIL included an amendment to the Social Security Act related to the Coronavirus State and Local Fiscal Recovery Fund (Coronavirus Fund) to allow the Coronavirus Fund to be used for purposes of meeting non-federal match requirements required for authorized Bureau of Reclamation water projects.[103] Additionally, the U.S. Department of Transportation stated that the Coronavirus Fund may be used for "Planning Grants and Capital Construction Grants" to satisfy non-federal match requirements.[xxxi] This is a

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[xxxi] Under sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act (42 U.S.C §§ 802–803), the Coronavirus Fund "may be used for the provision of government services up to the amount of the recipient government's reduction in revenue due to the COVID–19 public health emergency. However, if the recipient's [Coronavirus Fund] payment exceeded their reduction in revenue due to the emergency, the excess amounts cannot be used as non-Federal share." U.S. Department of Transportation, "Understanding Non-Federal Match for the RCP Program," (last updated Aug. 30, 2022) https://www.transportation.gov/grants/reconnecting-communities/understanding-non-federal-match-rcp-program.

change from the typical requirements that other federal funds cannot be used to satisfy non-federal match requirements.

In response to the pandemic, in 2020 OMB released a memorandum on providing disaster relief flexibilities. To reduce burdens of receiving federal financial assistance, federal awarding agencies were given the authority to grant exceptions to recipients affected by the COVID-19 pandemic as they deemed appropriate and to the extent permitted by law.[104] Agencies' abilities to grant cost share flexibilities were still subject to underlying statutory requirements.[xxxii] In February 2022, following the issuance of the OMB memorandum, EPA issued its own memorandum waiving the cost share requirement for grantees under the Reduction in Lead Exposure Via Drinking Water Grant for the 2022 fund cycle, in recognition of difficulties encountered by communities due to the COVID-19 pandemic.[105] Similarly, the Department of Health and Human Services (HHS) announced in 2021 that HHS would approve requests for waivers of non-federal match in Office of Head Start applications for reasons including, but not limited to COVID-19, while COVID-19 is a public health emergency.[106]

IV. Federal Policy Recommendations

As the Biden Administration and federal agencies implement new federal funding, the Justice40 Initiative, and other policies, it is important to consider the impact that non-federal match requirements may have on achieving goals of equity and environmental justice. Federal agency policymakers have opportunities to reduce the barrier of non-federal match requirements to support projects in overburdened communities, including through the following policy recommendations:

Recommendation 1: Explore opportunities under existing statutory authority to reduce or waive non-federal match requirements

Agencies can evaluate their authority to waive or reduce non-federal match requirements for both new and long-standing grant programs. New pieces of legislation such as the BIL have

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[xxxii] For example, EPA published an FAQ stating that were not able to grant blanket waivers due to statutory constraints; it "may not waive statutory cost share requirements unless the statute itself provides authorization and waivers of regulatory cost share requirements typically require a regulatory exception under 2 CFR 1500.4." Environmental Protection Agency, "Can EPA waive 'match' or cost share requirements if a recipient is unable to meet the requirement due to budget shortfalls as a result of COVID-19?" (last updated July 12, 2022) https://web.archive.org/web/20210325052819/https://www.epa.gov/coronavirus/can-epa-waive-match-or-cost-share-requirements-if-recipient-unable-meet-requirement-due.

created multiple grant programs where agencies have flexibility to waive non-federal match requirements. For example, grant programs in the BIL include provisions for the administering agency's Secretary to waive match requirements if "it is in the interests of the Government''[107] or if the "interests of the… program would be best served by decreasing or eliminating the non-Federal share."[108]

For long-standing grant programs, there may be underused opportunities for agencies to act when an authorizing statute is broad in granting an agency the authority to waive match requirements. For example, DOE has department-wide cost sharing requirements[xxxiii] for most research, development, demonstration, and commercial application activities,[xxxiv] and the Secretary of Energy has the authority to reduce or eliminate cost sharing requirements for applied research and development as "necessary and appropriate."[109] Given current policy objectives, federal agencies could consider how their statutory authorities may more proactively support projects that benefit overburdened communities. An example of an agency taking action is EPA's Community Grants Program, where the Fiscal Year 2023 Appropriations Act authorizes EPA to grant waivers, and EPA subsequently acted to proactively grant waivers to defined disadvantaged communities.[110]

Recommendation 2: Update agency grant navigators and resources to increase awareness of match requirements and agency flexibility

New legislation has significantly expanded federal funding opportunities, and many agencies are developing "navigators" (searchable or interactive tables with grant program information) and online guides of their grant programs.[111] To support applicants from overburdened communities, agencies should include information about non-federal match requirements and potential waivers or other flexibility that can be exercised by the agency administering the grant. An example of an agency providing clear and accessible information about grant program match requirements is the DOT summary of covered Justice40 funding programs, with details on non-federal match requirements for each program.[112] DOT has also developed a Discretionary Grants Dashboard, which is a tool that provides searchable, sortable information on grant opportunities, including whether the grant offers match waivers.[113]

[xxxiii] U.S. Department of Energy cost share requirements were established by Section 988 of the Energy Policy Act of 2005 (EPAct). Pub. L. 109–58.

[xxxiv] Cost share requirements include a 20 percent non-federal cost share required for research and 50 percent for demonstration or commercial projects. 2 C.F.R. § 910.130.

Agencies can update existing navigators and resources to include information on match requirements. For example, the Department of Housing and Urban Development's (HUD) Funding Navigator tool includes information on funding opportunities, including funding type and eligible uses,[114] but does not currently include any information on match requirements or waivers.

Agencies can create guides and summaries for overburdened communities and populations that include information about match requirements and flexibility. For example, the Biden Administration has taken steps to help inform communities regarding which programs are eligible for match waivers through the Rural Playbook and Tribal Playbook. Some agencies have created their own specialized guides, such as FEMA's Hazard Mitigation Assistance Cost Share Guide.[115]

In some cases, particularly for small community-based organizations, it may be best to form direct lines of dialogue between the agency and potential recipients to inform these potential applicants about available grant funding sources and application processes.[116] One federal initiative seeking to do this, AmeriCorps, is achieving transparency by proactively sharing information about their match waiver request process via live calls and written updates, posting on respective program web pages, and posting with current funding opportunities.[117]

Figure 4: DOT's Justice40 Non-Federal Match Flexibility Tool

DOT Funding Programs with Non-Federal Match Flexibility

Program	Is a Non-Federal Match Required?	Amount of Federal Share	Non-Federal Match Flexibilities
All Stations Accessibility Program	Yes	Federal share is 80%.	
America's Marine Highway Program	Yes	Federal share is 80%.	
Buses and Bus Facilities Competitive Program	Yes	Federal share is 80%.	Exceptions: (1) **Vehicles**. The federal share is 85 percent for the acquisition of vehicles for purposes of complying with or maintaining compliance with the Americans with Disabilities Act (ADA; 42 U.S.C. 12101 et seq.) or the Clean Air Act (CAA; 42 U.S.C. 7401 et seq.). (2) **Vehicle-related Equipment and Facilities**. The federal share for project costs for acquiring vehicle-related

The U.S. Department of Transportation has developed a tool that communicates the match requirements and flexibilities of different federal programs. Source: U.S. Department of Transportation[118]

Recommendation 3: Streamline the non-federal match requirement waiver application process

Federal agencies can support program goals by making non-federal match waiver applications less complex, better sequenced within the grant application process, and less time-consuming to complete. One example of potential application complexity is related to the definition of targeted communities in a grant program. In some cases, to be granted a waiver, the applicant has to sift through multiple data sources and tables to figure out whether they are in a "disadvantaged" area or an "area of persistent poverty."[119] If the community's eligibility under these criteria is not properly documented, then the community may miss out on the chance to get the waiver. To alleviate this barrier, agencies should clarify in advance whether a community or geographic location qualifies for a waiver.

Waiver application timelines (and their relationship with grant application deadlines) can create barriers to equitable implementation of a grant. For example, long timelines for an agency's approval of a match waiver would create uncertainty and challenges for overburdened community applicants. An applicant may be discouraged from applying for a grant if it is required to advance the application without knowing whether the non-federal match requirement will be waived. Agencies should consider adjusting match waiver application deadlines so an applicant will know whether a waiver will be approved well in advance of the grant application deadline.

Importantly, the burden of determining whether the project/applicant qualifies for a waiver should be on the federal agency, rather than the applicant. As one example of a streamlined process, AmeriCorps has allowed grant applicants to request a waiver using a standard form for consistency and efficiency, allowed applicants to self-certify waiver justifications rather than provide documentation to support waiver requests, and committed to doing an initial review within 30 days of receiving waiver requests to the extent possible.[120]

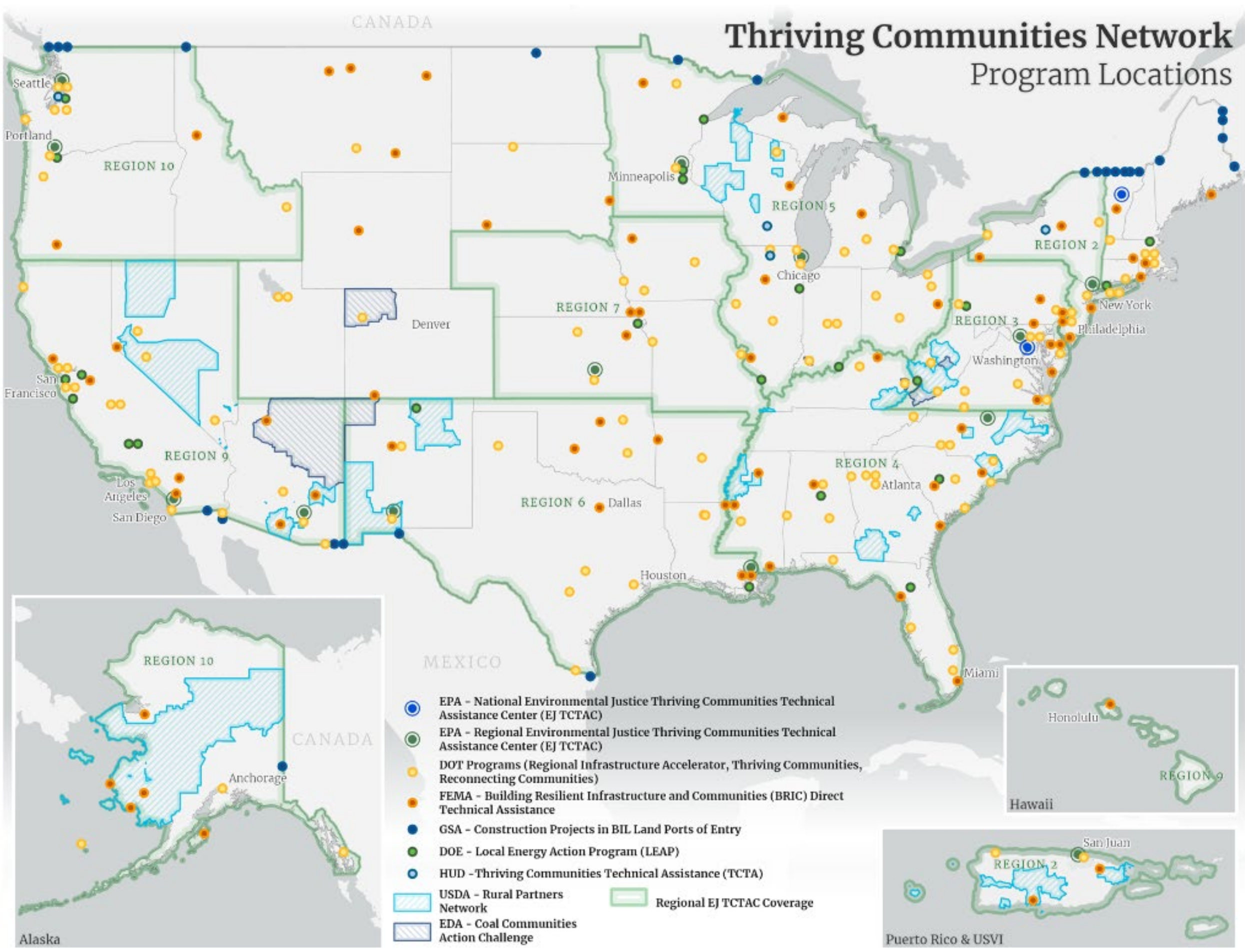
Recommendation 4: Include support for non-federal match requirements in technical assistance to federal grant applicants

There are opportunities for federal agencies and funding assistance providers to support communities navigating non-federal match requirements. Some agencies have provided support for grant applicants by hosting webinars. In 2020, for example, FEMA hosted a webinar on cost share requirements for hazard mitigation assistance, with emphasis on the less burdensome cost share requirements for small and low-income communities in the Building Resilient Infrastructure and Communities (BRIC) program.[121] Similarly, in 2023 DOT hosted a webinar on discretionary grant opportunities that featured information on non-federal match flexibility.[122] Federal agencies can also provide accessible venues for information exchange about funding opportunities, as well as peer-to-peer forums to support communities through the federal funding application process.[123]

Newly created federal technical assistance providers and networks can play an important role addressing the challenges of match requirements as part of their expanded work supporting communities. One new federal initiative with several participating agencies is the Federal Interagency Thriving Communities Network, which is designed to help federal agencies deploy federal "place-based technical assistance and capacity-building resources to urban, rural, and Tribal communities experiencing a history of economic distress and systemic disinvestment."[124]

In April 2023 EPA announced the creation of 16 Environmental Justice Thriving Communities Technical Assistance Centers that will each receive a minimum of $10 million to provide assistance for overburdened communities navigating federal grant processes.[125]

Figure 5: Federal Thriving Communities Network Program Locations



The Federal Thriving Communities Network is designed to help federal agencies provide technical assistance and capacity-building to disadvantaged communities, including resources for grant applications, financial management, planning, project development, project implementation, and community engagement. This map identifies Thriving Communities Network program locations, including from U.S. EPA, U.S. DOE, U.S. HUD, U.S. DOT, and other agencies. Source: U.S. Environmental Protection Agency[126]

Recommendation 5: Engage with congressional appropriators regarding statutory requirements for non-federal match requirements

Agencies typically engage with Congress in the federal appropriations process and the development of new legislation, and may have an opportunity to inform the design and requirements of federal funding programs. In future legislative engagement, agencies could provide information on the benefits of eliminating non-federal match requirements for certain applicants or providing broader match requirement waiver authority to administering agencies. There are recent examples of legislative changes to amend the statutory requirements of grant programs related to non-federal match requirements to help promote equity in providing grants to overburdened communities. One example, discussed above, is DOE's State Energy Program, which originally had statutory language requiring a non-federal match, but was amended by the BIL to eliminate this requirement.[127] Several other newly created climate and clean energy programs, such as the Climate Pollution Reduction Grant program, do not have match requirements.

Recommendation 6: Update Justice40 Guidance to provide direction to agencies regarding non-federal match requirements

The White House's Justice40 Interim Guidance, issued in July 2021, does not discuss non-federal funding match requirements for grant programs.[128] An update to the Justice40 Interim Guidance could address match requirements more explicitly and guide agencies to do as much as they can under existing statutory authority to waive match requirements when it would advance Justice40 goals. This could include waiving or reducing match requirements, increasing transparency about match requirements for covered Justice40 programs, and reducing the complexity of match waiver applications.

Such an update to the Justice40 Interim Guidance should be developed with the input of the White House Environmental Justice Advisory Council (WHEJAC), a council established by President Biden's 2021 EO 14008 to advise the White House Council on Environmental Quality (CEQ) on environmental justice issues.[129] In 2021, the WHEJAC published a summary of recommendations on the implementation of the Justice40 Initiative, which included examples of grant programs where non-federal match requirements should be reduced or eliminated, noting such requirements may be "prohibitive and limit the number of communities who can apply for funding."[130]

V. Conclusion

Non-federal match requirements are a barrier to overburdened communities receiving the benefits of federal funding programs, and may inhibit the successful implementation of the Justice40 Initiative. However, there are actions that can be taken by federal policymakers to reduce the impact of these match requirements.

In addition to the federal policy recommendations included in this report, state and local governments can also support overburdened communities in accessing federal funds. The Georgetown Climate Center is considering additional analysis on these policy opportunities. Please contact us at climate@georgetown.edu with any questions or comments or to stay in touch with us regarding this work.

Endnotes

[1] Exec. Order No. 14008 (Jan. 17, 2021).

[2] U.S. Government Accountability Office, "Proposed Changes in Federal Matching and Maintenance of Effort Requirements for State and Local Governments" (Dec. 23, 1990) https://www.gao.gov/assets/ggd-81-7.pdf.

[3] The White House, "Justice40" (last accessed Jan 27, 2023) https://www.whitehouse.gov/environmentaljustice/justice40/.

[4] U.S. Government Accountability Office, "Proposed Changes in Federal Matching and Maintenance of Effort Requirements for State and Local Governments" (Dec. 23, 1980) https://www.gao.gov/assets/ggd-81-7.pdf.

[5] U.S. Government Accountability Office, "Proposed Changes in Federal Matching and Maintenance of Effort Requirements for State and Local Governments" at iii, 28 (Dec. 23, 1980) https://www.gao.gov/assets/ggd-81-7.pdf.

[6] Congressional Research Service, "Federal Grants to State and Local Governments: A Historical Perspective on Contemporary Issues" (May 22, 2019) https://sgp.fas.org/crs/misc/R40638.pdf. Financial assistance is defined in numerous federal laws. See U.S. Government Accountability Office, "Principles of Federal Appropriations Law" at 10-3 (Feb. 2006) https://www.gao.gov/assets/2019-11/202819.pdf. The Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards defines "federal financial assistance" as assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions or donations of property, direct appropriations, food commodities, and other financial assistance. 2 C.F.R. § 200.1.

[7] Congressional Research Service, "Federal Grants to State and Local Governments: A Historical Perspective on Contemporary Issues" at 9-10 (May 22, 2019) https://sgp.fas.org/crs/misc/R40638.pdf.

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[8] Grants.gov, "Grant Terminology" (last accessed June 7, 2023) https://www.grants.gov/learn-grants/grant-terminology.html.

[9] Pew Charitable Trusts, "Fiscal 50: State Trends and Analysis" (last updated Sept, 27. 2023) https://www.pewtrusts.org/en/research-and-analysis/data-visualizations/2014/fiscal-50#ind1; National Association of State Budget Officers, "Summary: 2022 State Expenditure Report" at 4 (Nov. 18, 2022) https://higherlogicdownload.s3.amazonaws.com/NASBO/9d2d2db1-c943-4f1b-b750-00fca152d64c2/UploadedImages/Reports/2022_State_Expenditure_Report_-_Summary.pdf.

[10] Pew Charitable Trusts, "Pandemic Drives Federal Share of State Revenue to Record High" (last updated Oct. 18, 2022) https://www.pewtrusts.org/en/research-and-analysis/articles/2022/10/18/pandemic-drives-federal-share-of-state-revenue-to-record-high.

[11] Office of Management and Budget, Analytical Perspectives: Budget of the U.S. Government Fiscal Year 2023 at 205 (2022) https://www.whitehouse.gov/wp-content/uploads/2022/04/spec_fy2023.pdf.

[12] National Association of State Budget Officers, "Summary: 2022 State Expenditure Report" at 4 (Nov. 18, 2022) https://higherlogicdownload.s3.amazonaws.com/NASBO/9d2d2db1-c943-4f1b-b750-0fca152d64c2/UploadedImages/Reports/2022_State_Expenditure_Report_-_Summary.pdf.

[13] Grants.gov, "Grant Terminology" (last accessed Jan. 27, 2023) https://www.grants.gov/learn-grants/grant-terminology.html.

[14] Tax Policy Center, "The State of State (and Local) Tax Policy" at 2 (May 2022) https://www.taxpolicycenter.org/sites/default/files/briefing-book/what_are_the_sources_of_revenue_for_local_governments_1.pdf.

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