



COUNCIL OF INFRASTRUCTURE FINANCING AUTHORITIES

## ***More Protection, Less Process***

**Increasing Protection for Public Health & the Environment by Reducing Process & Paperwork**

**[www.MoreProtectionLessProcess.org](http://www.MoreProtectionLessProcess.org)**

The Clean Water State Revolving Fund (SRF) is a proven state-federal partnership that provides communities with access to low-cost financing for water infrastructure projects that protect public health and the environment. Funding is provided by an annual federal “capitalization” grant and state funds, including a 20% state match and loan repayments, plus bond proceeds in states that leverage.

During the last decade, the number of federal requirements on SRF loans has increased significantly, even though the Clean Water SRF is now comprised of 67% in state funds.

While well intentioned, many of the federal loan requirements are duplicative of state law and add to the administrative cost of water infrastructure projects, making SRF financing less attractive to potential borrowers. As a result, many communities are delaying or simply not pursuing much needed water infrastructure projects.

### **Federal Loan Requirement: Davis-Bacon**

**Requirement:** Since 2009, all SRF loans have required recipients to ensure contractors and subcontractors pay the federal prevailing wage to mechanics and laborers on its water infrastructure project. (Annual Appropriations, WRRDA, AWIA)

**Issue:** According to the U.S. Department of Labor (DOL), 26 states have state prevailing wage laws and DOL adopts state wages for highway construction projects but not other construction projects. Compliance with both federal and state law is duplicative and federal compliance procedures are exceedingly prescriptive.

**Proposal:** Consider loan recipients who comply with their state prevailing wage laws to be in compliance with this federal requirement. In states without a prevailing wage law, continue to require SRF loan recipients to ensure mechanics and laborers are paid the prevailing wage as determined by the Department of Labor but allow SRFs to develop their own compliance and reporting procedures “as determined by the Governor of the State” as stipulated in the law. (WRRDA)

### **Federal Loan Requirement: American Iron & Steel**

**Requirement:** Since 2014, all SRF loans have required recipients to purchase products made with iron and steel produced in the United States for construction of water treatment infrastructure projects. (Annual Appropriations, WRRDA)

**Issue:** Verifying that products comply with this requirement can be a challenging and time-consuming process for utilities.

**Proposal:** Encourage the iron and steel industry to establish and maintain a national database of verified iron and steel products produced in America to facilitate and expedite compliance with this requirement.

## **Federal Loan Requirements: Cost and Effectiveness Analysis and Fiscal Sustainability Plan**

**Requirements:** Since 2014, Clean Water SRF loans have required recipients to conduct a cost and effectiveness analysis of techniques and technologies to maximize water use and energy conservation in construction and operations, and to develop and implement a fiscal sustainability plan. (WRRDA)

**Issue:** Many state and local governments have policies and requirements for asset management, water conservation, and energy efficiency that are tailored to meet the unique needs of their communities. Compliance with both federal and state laws is duplicative.

**Proposal:** Allow SRFs to determine how best to encourage these and other business and management practices and allow SRFs to use a portion of their capitalization grant, up to 2%, to provide technical assistance for this purpose.

## **Federal Loan Requirement: Procurement Procedures**

**Requirement:** Since 2014, Clean Water SRF loans have required recipients reported in the federal database to follow federal procurement procedures for architectural and engineering services, which requires Qualifications-Based Selection. (WRRDA)

**Issue:** States have procurement laws and procedures to ensure communities use qualified consultants for water infrastructure projects. Compliance with both federal and state laws is duplicative. Additionally, the federal requirement is especially challenging for communities that use engineering consultants to provide professional services for an array of municipal infrastructure projects or as a cost-saving staff augmentation strategy for smaller communities.

**Proposal:** Repeal the federal procurement requirement.

## **Federal Loan Requirement: Reporting**

**Requirement:** Since 2010, all SRF loans funded by the federal capitalization grant must be entered into a federal database for transparency and public disclosure purposes. (FFATA)  
Since 2014, all SRF loans entered into this database must comply with the full suite of federal loan requirements. (EPA Policy)

**Issue:** Because of this requirement, some SRF loan recipients bear a greater regulatory burden than others, creating disparity among borrowers. To create equity and simplify the process, many states require all applicants to comply with all federal requirements.

**Proposal:** Allow SRFs to report their capitalization grant, instead of each SRF loan, in the federal database and allow SRF recipients to satisfy the need for public disclosure and transparency by complying with the 2015 EPA requirement to communicate the use of federal funds in the project to the public.

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(Legislation: FFATA: Federal Funding and Accountability Transparency Act of 2010; WRRDA: Water Resources Reform and Development Act of 2014; AWIA: America's Water Infrastructure Act of 2018)