



**POSITION
of the
WESTERN STATES WATER COUNCIL
regarding the
CLEAN and DRINKING WATER STATE REVOLVING FUNDS
and
WATER INFRASTRUCTURE FINANCE and INNOVATION ACT
LOANS and STATE and TRIBAL ASSISTANCE GRANTS**

**Reno, Nevada
May 24, 2023**

WHEREAS, the economies of every state and the Nation as a whole depend upon sufficient water supplies of suitable quality, which require adequate water and sewer infrastructure; and

WHEREAS, it is Congress's intent that states assume responsibility for permitting programs under the Clean Water Act and Safe Drinking Water Act;

WHEREAS, the Environmental Protection Agency's (EPA) Clean Water State Revolving Fund and Drinking Water State Revolving Fund (SRF programs) provide states with capitalization grants that are leveraged with state contributions to offer financial assistance to cities, towns, communities, and others for the planning, design, construction and rehabilitation of built and green water and wastewater-related infrastructure to improve source and drinking water quality; and

WHEREAS, each state administers the SRF programs in coordination with EPA, and these programs are one of the principal tools that states use to pursue the goals of the Clean Water Act and Safe Drinking Water Act; and

WHEREAS, the nation's wastewater and drinking water infrastructure is aging and in need of repair and replacement; and

WHEREAS, the EPA by law estimates infrastructure needs every four years and the most recent estimates show a total capital investment need of at least \$271 billion for wastewater and stormwater infrastructure and \$625 billion for drinking water infrastructure nationwide over the next 20 years, and a significant funding gap under current spending and operation practices; and

WHEREAS, the 2021 American Society of Civil Engineers' Infrastructure Report Card and updated Failure to Act Report estimates that by 2029 there will be a \$434 billion gap in needed new capital investments for water and wastewater projects, as well as the loss of an estimated 10.6% of the water sector workforce each year due to transfers or retirement, with some utilities expecting as much as half of their staff to retire in the next ten years; and

WHEREAS, ASCE recommends tripling the amount of annual appropriations to the Drinking Water SRF program, fully funding the WIFIA program and the USDA Agriculture Rural Development programs; and

WHEREAS, these estimates do not include anticipated operation and maintenance costs, typically funded by ratepayers, nor an estimated \$30 billion unfunded gap related to calls for replacing some 6.1 million homes with lead water service lines; and

WHEREAS, proposed federal appropriations and budget requests that reduce SRF funding ignore the multitude of needs identified by EPA, particularly given that many states and communities are struggling to meet their water and wastewater challenges in the face of growing populations and aging infrastructure; and

WHEREAS, to the extent federal law has established certain nationwide levels of treatment for drinking water and wastewater, the federal government has an obligation to provide states with the necessary financial and technical assistance needed to comply with such requirements, including the appropriation of adequate funding for SRF capitalization grants; and

WHEREAS, EPA's Clean Water and Drinking Water Infrastructure Sustainability Policy mandates that state SRF programs promote sustainable water infrastructure and overall system sustainability; and

WHEREAS, the SRF Programs have measures in place to help ensure system sustainability and account for individual state needs and priorities; and

WHEREAS, the SRF programs are one of the most successful delivery mechanisms for federal assistance; and

WHEREAS, new competing water and wastewater infrastructure funding programs should not come at the expense of the SRFs, which are a proven model for addressing water and wastewater infrastructure needs; and

WHEREAS, it is the sense of Congress through the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA), the Water Infrastructure Improvements for the Nation Act of 2016 (WIIN), the America's Water Infrastructure Act of 2018 (AWIA), the American Rescue Plan Act of 2021 (ARPA), the Infrastructure Investment and Jobs Act of 2021 (IIJA), and the Inflation Reduction Act of 2022 (IRA) to provide robust funding of capitalization grants for States' drinking water revolving loan fund and the clean water revolving loan fund; and

WHEREAS, Congress has imposed a number of additional requirements on the states' management and use of SRF funds, including but not limited to: (1) mandating the use of between 20% and 30% of appropriated funds for principal forgiveness, negative interest loans, grants, or a combination thereof; (2) setting aside 10% of funds for green infrastructure, water or energy efficiency, or other environmentally innovative activities; (3) "American Iron and Steel," "Build America, Buy America," and other domestic sourcing provisions that limit the use of SRF funds to purchase certain types of materials and services; (4) Davis-Bacon Prevailing Wage that requires payment of locally prevailing wages and fringe benefits to contractors and subcontractors at the site of work, (5) mandating at least 10% (CW SRF) and 12% (DW SRF) for loans to disadvantaged communities in the form of grants or principal forgiveness; and (6) mandating funds that can only be used for specific project purposes, such as replacing lead lines and addressing emerging contaminants; and

WHEREAS, although often well-intended, these requirements are generally aimed at advancing policy objectives that are unrelated or contrary to the SRFs' primary purpose of providing a permanent, recurring source of funding for basic water infrastructure, and reduce the flexibility of the States to manage SRFs in a cost effective manner; and

WHEREAS, paying for Congressional earmarks through SRF capitalization grants cuts funding for state priority projects; and

WHEREAS, cutting federal funding for the SRFs also cuts funding for critical water quality programs, including technical assistance for small, rural and tribal communities, source water protection and capacity development under the Public Water System Supervision program, and other state and local water protection activities, and may put primacy at risk for some states; and

WHEREAS, additional restrictions on state SRF management represent unfunded federal mandates that impose significant regulatory burdens and make state SRF programs less attractive to local entities, and reduce the capacity of a State to leverage their SRF programs and address infrastructure needs; and

WHEREAS, the State and Tribal Assistance Grants (STAG), including Performance Partnership Grants (PPG) and other grants are critical to the support of state programs that assure that the nation's drinking water and water quality remain safe for the public health of the citizens.

NOW, THEREFORE, BE IT RESOLVED, that the Administration and Congress should work together to ensure that stable and continuing federal appropriations are made to the SRF capitalization grants, WIFIA loans, and State and Tribal Assistance Grants at funding levels that adequately reflect the states' priorities identified in their intended use plans (IUP), and further that these states' allocations are not reduced or harmed by directed congressional earmarks. These combined actions are intended to help states address their water infrastructure needs and protect public health and the environment for the benefit of the people.

BE IT FURTHER RESOLVED, that the SRF programs should allow for greater flexibility and require fewer restrictions on state SRF management.

BE IT FURTHER RESOLVED, that the Western States Water Council urges the Administration to allow and encourage drinking water and wastewater system improvements to satisfy compensatory mitigation requirements triggered in various permitting programs.

(See also Position #446, 3/06/20; #364, 4/03/14; and #404, 4/14/17)