



MINNESOTA

PUBLIC FACILITIES AUTHORITY

# SRF 101: Nuts and Bolts

## - Introduction/Overview

Jeff Freeman

November 18, 2019

# A Little History...

## Clean Water Act – 1972

- Created Federal Construction Grants Program for wastewater project planning, design, construction
  - 75% federal grants, many states added a state grant percentage

## Clean Water Act Amendments – 1987

- Phased out Construction Grants Program (Title II)
- Created new State Water Pollution Control Revolving Funds (Title VI)
  - Clean Water State Revolving Funds

## Safe Drinking Water Act Amendments – 1996

- Created Drinking Water State Revolving Fund

# State Revolving Fund (SRF) Concept

- Federal government provides annual capitalization grants as seed money for revolving loan funds in each state
  - State required to provide a 20% match
- States administer their SRF programs to make loans to cities and other entities for wastewater/drinking water infrastructure projects
  - Loans must be at below market interest rates
  - Other eligible uses
- States are responsible to manage their SRFs in perpetuity
  - Loan repayments revolve back to the SRF, providing a permanent source of low cost capital to meet future water infrastructure needs

# SRFs – A Unique Federal-State Partnership

- SRFs are water infrastructure banks that operate in each state
- Federal law governs eligible projects and eligible uses of the funds
  - Primarily loans for water infrastructure projects (wastewater, drinking water)
    - Eligible projects include nonpoint source mitigation, stormwater, green infrastructure
    - Eligible uses include additional subsidization (principal forgiveness), loan guarantees, DWSRF set-asides
- Variety of Federal Requirements
  - Administrative and programmatic (Intended Use Plans, Equivalency, environmental review, reporting requirements)
  - Project requirements (Prevailing wages, American Iron and Steel)

# States Have Significant Flexibility

- SRF Management Structure
  - One agency or multiple agencies
  - Separate state financing authority or within a larger department
  - How are administrative responsibilities shared between agencies
  - May be different for Clean Water vs. Drinking Water
- Project priorities and funding strategies
  - Each state determines its own priorities and strategies to address its particular needs and concerns
- Application and review process, loan terms and conditions
- Manage SRF assets

# SRFs are very different from other financing programs

- Loans, not grants
  - Grants are one and done, accounting transactions are all one-way
  - Loan transactions are two-way, disbursements and repayments
    - Managing a loan portfolio requires a more comprehensive accounting system
- Subsidized loans at below market rates
  - Lower cost of construction (2018 avg SRF rate: 1.6%, avg market rate: 3.3%)
  - Debt financing requires cities to have long-term sustainable rate structures
- Revolving funds managed by States
  - Loan repayments return to the SRF, provide dedicated future revenue stream
  - WIFIA and USDA-RD loan repayments return to federal treasury

# Maximizing SRF Effectiveness

- “Think like a Bank”
  - SRF management involves managing assets, projecting revenues and expenditures, balancing cash flows
- Predictable revenues and expenditures
  - SRFs are not totally dependent on future appropriations
    - Ongoing revenue stream makes future lending more predictable
  - Use financial modeling to determine annual sustainable lending capacity
- Consider leveraging if loan demand exceeds lending capacity
  - Leveraging can increase current lending capacity and help build and maintain a strong project pipeline

# SRF Program Management

Presented by Lori Johnson

November 18, 2019



# Agenda

Grant Application/Agreement

Operating Agreement

Coordination with EPA

Intended Use Plan

Annual Report/Annual Review (PER)

# Federal Regulations

## **CWSRF**

- 40 CFR Part 35 Subpart K

## **DWSRF**

- 40 CFR Part 35 Subpart L

## **Federal Water Pollution Control**

## **Safe Drinking Water Act**

Electronic Code of Federal Regulations



# Grant Application Process

- Must certify that state has legal, managerial, technical and operational capabilities to administer the program
- Identify source of match to verify not federal
- Electronic application and signatures
- Create workspace by identifying the funding opportunity package
- Start coordination process early
  - Intergovernmental review
  - AG Certification




- › Non-competitive grant (formula)
- › Allotment for all 50 states plus Puerto Rico
- › Due 60 days prior to beginning of SFY
- › If possible wait until you have funding targets. If not, apply with previous years numbers

# Grant Agreement

## Commitment to carry out award conditions

### Must Include:

1. The State's Application by reference
2. Intended Use Plan (IUP)
3. Payment Schedule
4. State Environmental Review Process (SERP)
5. Certifications or demonstrations of other agreement requirements
6. Operating Agreement, where used

	<p><b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b></p> <p><b>Grant Agreement</b></p>
<p>RECIPIENT TYPE: State</p>	

- › Notice of Award
- › Funding and Budget information
- › Administrative Conditions
  - General Terms & Conditions
- › Programmatic Conditions

**Acceptance by either drawing funds or not providing comments within 21 days**

# Grant Agreement Requirements

- Agree to accept payments
- Provide state match-20%
- Provide match for State program management set aside (DW-can be in-kind)
- Binding Commitments equal to 120% of grant (can be banked)
- Expeditious and timely expenditure
- First use of funds equaling the grant amount to POTW (CW)/accordance with IUP (DW)
- Compliance with Title II
- State laws and procedures
- State accounting and auditing procedures
- Recipient accounting and auditing procedures (GAAP)
- Dedicated repayments source (DW)
- Annual Report (CW)/Biennial report (DW)
- Comply with Crosscutters (DW)
- Comply with provisions to avoid withholdings (DW-Capacity Development program)

# Operating Agreement

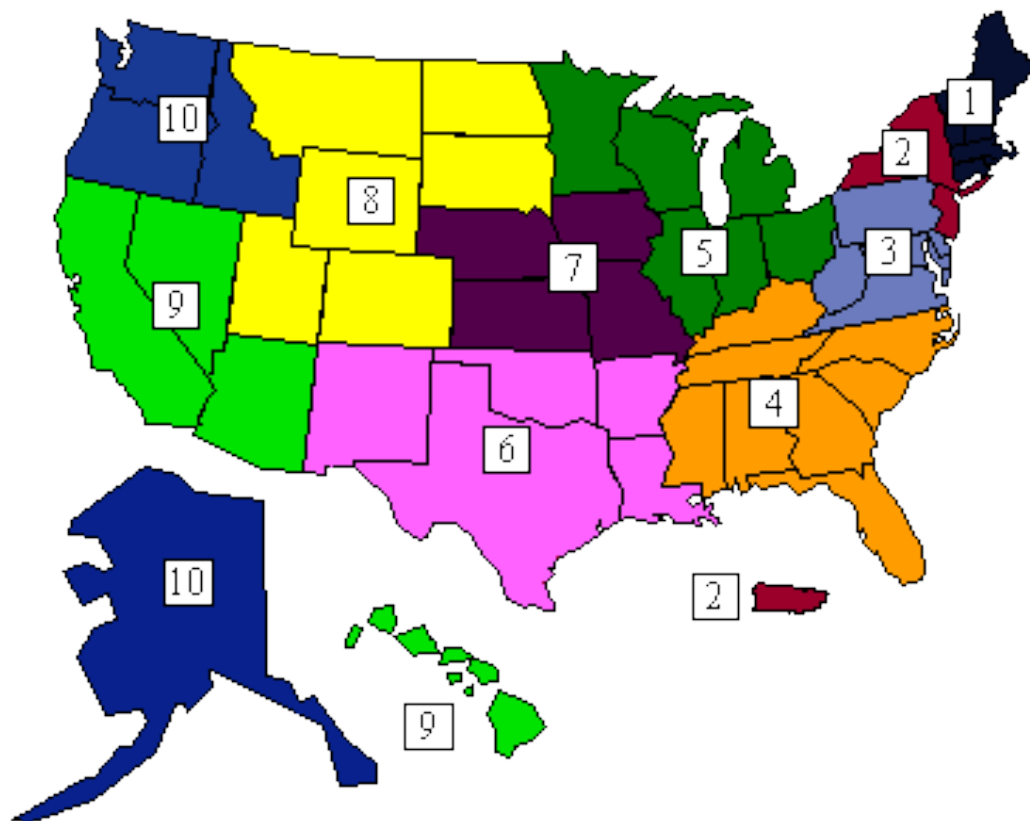
Optional Agreement of the State and EPA that describes the organizational and administrative framework and those procedures of the SRF program that are not expected to change annually may be described in an OA and referenced in the Grant Agreement.

If no OA, there will be expanded programmatic conditions in the grant agreement

# Coordination with EPA

## Regional Offices

- Project Officer
- SRF Coordinator



# Intended Use Plan (IUP)

## Identifying the intended uses of the funds and how they support the goals of the SRF.

- Prepared Annually
- Subject to Public Comment
- EPA must receive before award of grant

### Amendments:

The priority list of projects may be amended as long as they have been subject to the public review process (except on emergency basis-DW).





# IUP Contents-CWSRF

- List of POTW projects
  - Name of community
  - Permit number or other enforceable requirement
  - Type of assistance
  - Projected amount of eligible assistance
- List of Nonpoint source and national estuary protection activities (319, 230) expected to receive funding from CWSRF
- Short & Long Term goals
- Information on types of activities including eligible categories of costs, types of assistance and SRF policies on terms
- Assurances and specific proposals for meeting grant agreement and environmental review requirements
- Criteria and method for distribution of funds

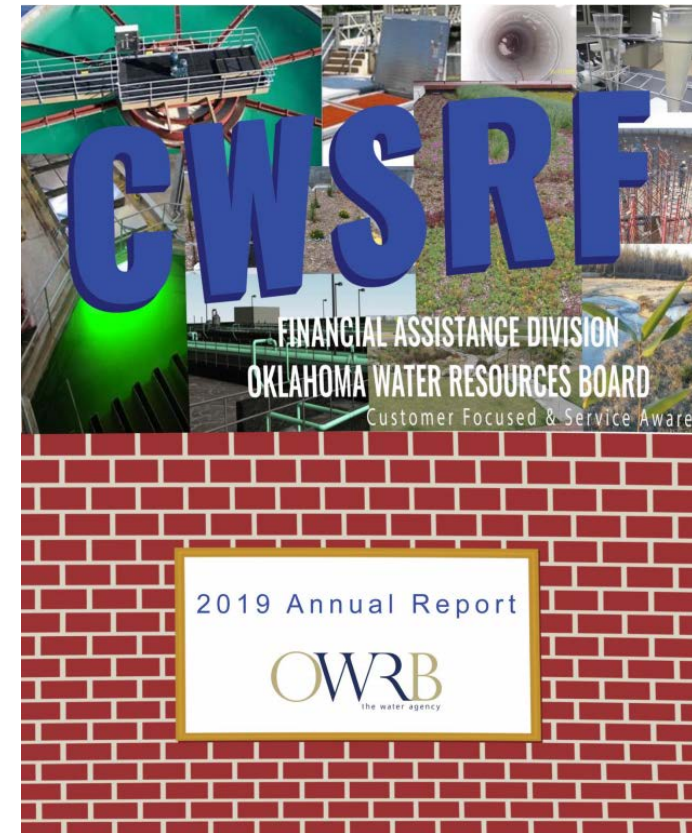
# IUP Contents-DWSRF

- Priority system
- Priority list of projects
- Distribution of funds
- Financial status
- Short & Long term goals
- Set aside activities
- Disadvantaged community assistance
- Transfer process
- Cross collateralization process

# Annual Report-CWSRF

## The State must establish that it has:

1. Reviewed all 212 projects with the SERP
2. Deposited the match before the grant payment
3. Assured compliance with grant agreement
4. Made binding commitments = 120%
5. Timely and expeditious use of funds
6. First used funds toward compliance



# Biennial Report-DWSRF

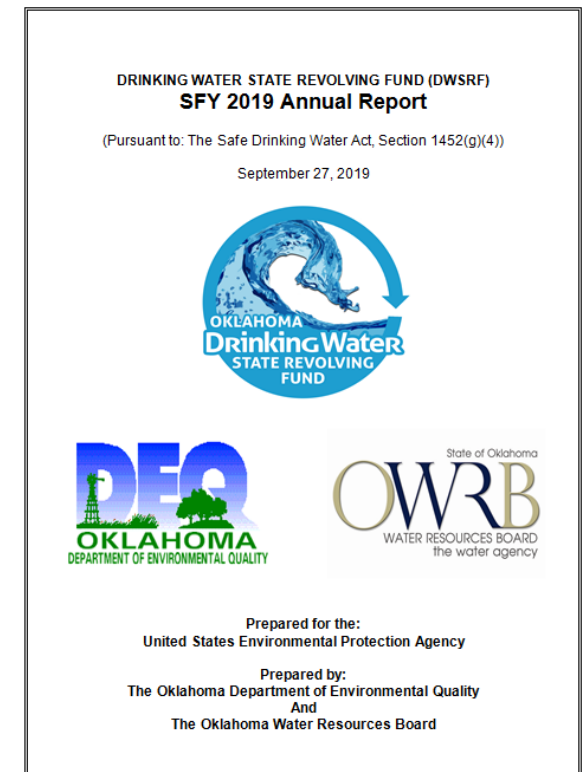
The state must describe how it has met the Goals & Objectives stated in IUP's and grant agreements and establish that it has:

1. Managed the DWSRF program fiscally prudent
2. Deposited its match as required
3. Made BC as required
4. Funded the highest priority projects or why projects were bypassed
5. Provided assistance for only eligible entities, projects, set aside activities
6. Provided assistance to small systems as required
7. Provided assistance to disadvantaged communities as required
8. Used fees for eligible purposes
9. Implemented procedures for transfer or cross-collateralization if occurred
10. Reviewed all cross-cutters and followed SERP
11. Complied with grant conditions

# Biennial Report-DWSRF (cont)

Must also include:

- Most recent audit of the fund and the state allotment
- Financial status of the DWSRF program, including dollar amount in fee accounts
- Must include financial statements and footnotes required under GAAP



# Annual Review

## Purpose:

- To assess the success of the State's performance of the activities identified in the IUP and Annual/Biennial Reports and Operating Agreements (when used)
- To determine compliance with terms of capitalization grant agreement

## Access Records

## Programmatic Evaluation Report

U.S. Environmental Protection Agency  
Region 6



Drinking Water  
Revolving Loan Fund

U.S. Environmental Protection Agency  
Region 6



Oklahoma  
Program Evaluation Report

State Fiscal Year 7/01/2017 - 6/30/2018  
Prepared by EPA Region 6  
Assistance Programs Branch  
August 2019

# Questions?

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**Clean Water State Revolving Fund (CWSRF)  
and  
Drinking Water State Revolving Fund (DWSRF)**

**CIFA SRF Workshop  
SRF 101 – Nuts and Bolts  
Federal Program Requirements**

**November 18, 2019**

Greg Pope, P.E.  
DNREC  
State of Delaware





# What are the Federal Requirements on the SRF?

- What is NEPA-like?
- What does Equivalency mean? What is an Equivalency Project?
- What is Additional Subsidization (AdSub)?
- What is the Green Project Reserve (GPR)?
- What are the reporting requirements? (FFATA, NIMS, CBR/PBR)
- What is affordability criteria and what is it used for?

## NEPA-like Environmental Review

- Projects must undergo a State Environmental Review Process (SERP) that generally conforms to the National Environmental Policy Act (NEPA). The State may elect to apply the procedures found at 40 CFR part 6, subpart E and related subparts, or apply its own “NEPA-like” SERP for conducting environmental reviews, provided that the following elements are met:
  - 1) Legal Foundation – Establish State authority to review projects
  - 2) Interdisciplinary Approach – Evaluate cross-cutters
  - 3) Documentation of Preliminary and Final determinations – Document Categorical Exclusion, Environmental Assessment, Finding of No Significant Impact and Record of Decision
  - 4) Public Outreach and Participation in Decision Making – Conduct public notices or hearings
  - 5) Alternatives Analysis and Evaluation – Evaluate no-action alternative and indirect impacts
  - 6) Other Environmental Review Principles – Evaluate cumulative impacts

# CWSRF – DWSRF Environmental Review Process

## **Categorical Exclusion (CE)**

- i.e. rehabilitation & replacements of existing facilities, minor upgrades or expansion of existing facilities, minor extensions within previous disturbed right-of-ways
- Issue a CE and legal notice with 30-day comment period
- If no issues, CE stands as issued

## **Finding of No Significant Impact (FONSI)**

- i.e. facilities to create new discharges to surface or ground waters, facility capacity to serve greater than 30% of existing population, action expected to have impacts
- Issue a draft FONSI to stakeholders and issue a legal notice
- Allow a 30-day comment period
- Mitigation of any environmental issues
- Issue FONSI

## **Environmental Impact Statement (EIS)**

- Required when project is determined to have significant impacts or is highly controversial
- Extremely rigorous process required to prepare an EIS and issue a Record of Decision (ROD)

# Equivalency

- **What does Equivalency mean?**

Federal requirements only apply to an amount made directly available by the Federal capitalization grant. Many States use equivalency procedures to minimize the impact of the Federal requirements

- **What is an Equivalency Project?**

A project (or group of projects) is selected in “**an amount made directly available by**” the Federal capitalization grant

- **Does Equivalency follow the money?**

Disbursements to the equivalency project(s) do not need to come from the Federal capitalization grant

# Equivalency

## ■ What are the Equivalency requirements?

- 1) **Signage** - SRF Assistance Recipients must communicate to the public that EPA funds are contributing to the project, using many allowable methods
- 2) **Single Audit** - State must collect and review Single Audit reports from Assistance Recipients who have expended more than \$750,000 in federal funds (in an amount equal to the capitalization grant)
- 3) **Federal Cross-Cutters** - Federal cross-cutters are requirements of other federal laws and Executive Orders that apply in Federal financial assistance programs
- 4) **Disadvantaged Business Enterprises (DBE)** –Ensures recipients of EPA financial assistance and their prime contractors seek out, and wherever possible, utilize Minority Business Enterprises, Women-Owned Business Enterprises, and other Disadvantaged Business Enterprise firms when procuring services, equipment, supplies, and construction
- 5) **Architectural/Engineering Procurement (A/E)** - State must ensure that all architectural and engineering A/E contracts for equivalency projects comply with the elements of the procurement processes for A/E services as identified in 40 U.S.C. 1101 et seq., or an equivalent State requirement
- 6) **Federal Funding Accountability and Transparency Act (FFATA)** - Ensure projects in an amount equal to the capitalization grant has been entered into [www.fsrs.gov](http://www.fsrs.gov)

# CWSRF Program Requirements

## All Projects

- Super Cross Cutters – Title VI of the Civil Rights Act; Section 504 of the Rehabilitation Act of 1973; Section 13 of the Federal Water Pollution Control Act Amendments of 1972; Age Discrimination Act of 1975; and Executive Order 11246
- State Prevailing Wage Rates (if applicable)
- Project Sign, Access to Project Site
- Suspension and Debarment and other responsibility matters

## Requirements that only apply to “Treatment Works” projects

- State Environmental Review Process (“NEPA-like” Environmental Review)
- Davis-Bacon Wage Rates
- American Iron and Steel (AIS) – CWSRF loan recipients, absent a waiver, are required to use iron and steel products that are produced in the United States for projects for the construction, alteration, maintenance, and repair of treatment works
- Fiscal Sustainability Plans – Applies to all entities in which the loan recipient submitted an application on or after October 1, 2014. Fiscal Sustainability Plans (FSPs) are required for treatment works repair, replacement, or expansion. *Entities which already have implemented asset management are not required to develop a FSP and can self-certify that they have implemented an asset management plan*

# CWSRF Program Requirements

## Requirements that only apply to Municipalities and State Agencies

- Cost and Effectiveness – This provision applies to municipalities or inter-municipal, interstate, or State agencies for which the loan recipient submitted an “application” on or after October 1, 2015. The statute requires a cost and effectiveness analysis
- Generally Accepted Accounting Practices (GAAP)

## Requirements that only apply to “Equivalency” Projects

- EPA Signage
- Single Audit
- Federal Cross-Cutters
- DBE
- A/E Procurement
- FFATA

# DWSRF Program Requirements

- Super Cross – Cutters
  - Title VI of the Civil Rights Act
  - Section 504 of the Rehabilitation Act of 1973
  - Section 13 of the Federal Water Pollution Control Act Amendments of 1972
  - Age Discrimination Act of 1975
  - Executive Order 11246
- NEPA-like SERP
- GAAP
- State Prevailing Wage Rates (if applicable)
- Davis-Bacon Wage Rates
- AIS
- DBE– Equivalency only
- Suspension and Debarment and other responsibility matters
- Project Sign
- Access to Project Site



## Additional Subsidization (Ad Sub)

- **CWSRF Additional Subsidization** – A State may provide Additional Subsidization (Ad Sub) to a municipality or intermunicipal, interstate, or State agency, including forgiveness of principal and 0% interest loans to benefit a municipality
  - That meets the affordability criteria of the State established; or
  - Does not meet the affordability criteria of the State if the recipient:
    - seeks Ad Sub to benefit individual ratepayers in the residential user rate class;
    - demonstrates to the State that such ratepayers will experience a significant hardship from the increase in rates necessary to finance the project or activity for which assistance is sought; and
    - ensures, as part of an assistance agreement between the State and the recipient, that the Ad Sub provided will be directed through a user charge rate system (or other appropriate method) to such ratepayers; or
  - To implement a process, material, technique, or technology
    - to address water-efficiency goals;
    - to address energy-efficiency goals;
    - to mitigate stormwater runoff; or
    - to encourage sustainable project planning, design, and construction

# Additional Subsidization

- **CWSRF Additional Subsidization** – (continued)
  - Permanent authority; applied to FY2015 capitalization grant award and later appropriations
  - Ad Sub may only be provided if the total amount appropriated for capitalization grants nationally exceeds \$1 billion
  - Maximum amount varies from year to year but cannot exceed 30% of capitalization grant award
  - Minimum amount is typically set at 10% of capitalization grant
  - Eligibility - public entities only, however, pass-through is allowable
- **DWSRF Additional Subsidization** – DWSRF must provide Ad Sub equal to 20% of the capitalization grant award (however, starting with the FFY19 grant States may provide an additional 6-35% of Ad Sub to disadvantaged communities)

# Green Project Reserve

- **Green Project Reserve (GPR)** is a subset of the CWSRF and DWSRF project eligibilities. The four GPR categories are:
  - 1) Water Efficiency
  - 2) Energy Efficiency
  - 3) Green Infrastructure
  - 4) Environmentally Innovative
- The CWSRF typically sets a 10% goal for GPR projects. The DWSRF currently does not have a set goal
- States may incentivize borrowers to apply for GPR projects via priority points and/or principal forgiveness

# SRF Federal Reporting Requirements

- FFATA – As discussed earlier, this is a requirement for equivalency projects
- Clean Water Benefits Reporting (CBR) and Projects and Benefits Reporting (PBR) – CBR/PBR are national databases used by States to report quarterly project level information for SRF programs. States must update CBR and PBR as changes occur, but not less than quarterly. CWSRF and DWSRF capitalization grant agreements include the CBR/PBR grant condition. In addition to tracking project level data, CBR/PBR tracks State progress in implementing Federal requirements, and environmental and public health benefits
- National Information Management Systems (NIMS) – NIMS is the national database used by States to report annual State level program information. This information is consolidated by the EPA to create regional and nation level reports
- News Flash! – EPA is working with the States to consolidate CBR/PBR and NIMS into a new SRF database

## CWSRF – DWSRF Affordability Criteria

- **Affordability Criteria** – States are required to establish affordability criteria to assist in identifying municipalities that would experience a significant hardship raising the revenue necessary to finance wastewater and drinking water projects.
  - Affordability criteria is based on:
    - Income
    - Unemployment Data (CWSRF only)
    - Population Trends (CWSRF only)

Income – Greater than 1.5-2% of Median Household Income (MHI) is typically used for the affordability standard wastewater and drinking water residential user rates; varies State to State

Unemployment Data – Non-payment of residential wastewater and drinking water utility bills are normally directly associated with insufficient income and unemployment

Population Trends – Wastewater utilities can be negatively impacted by decreasing population in relation to fixed assets and expenses that were designed/sized to service a larger customer base. The estimated number of Equivalent Dwelling Units (EDUs; 1 household = 1 EDU) served by a wastewater utility will be used as a proxy measure for population trends

**CIFA SRF Workshop**  
**SRF 101 – Nuts and Bolts**  
**Federal Program Requirements**

**Any questions???**

If you have any follow up questions please contact:

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