COUNCIL OF INFRASTRUCTURE FINANCING AUTHORITIES

October 28, 2019

The Honorable Peter DeFazio, Chairman
Transportation & Infrastructure Committee
U.S. House of Representatives
2164 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Sam Graves, Ranking Member
Transportation & Infrastructure Committee
U.S. House of Representatives
2164 Rayburn House Office Building
Washington, D.C. 20515

Dear Representatives DeFazio and Graves:

The Council of Infrastructure Financing Authorities (CIFA) appreciates the long-standing support of the U.S. House of Representatives Transportation & Infrastructure Committee for the Clean Water State Revolving Fund (SRF), the nation's premier program for providing low cost financing for water infrastructure that protects the environment and public health. Because of the leadership of the Committee and the U.S. Congress, this unique federal-state partnership has generated an investment of nearly $171 billion in clean water infrastructure in communities across America during the last three decades.

CIFA appreciates the increased authorizations provided by the Water Protection and Job Creation Act of 2019. The annual federal capitalization grant serves as a meaningful catalyst for generating non-federal funding for water infrastructure that protects public health and the environment. Since 1988, $65 billion in federal funding to the Clean Water SRFs has generated $106 billion in non-federal funding for clean water infrastructure. Increasing the federal investment will increase state and local investment, providing states even more opportunity to tackle significant water quality challenges today and in the future.

However, we are concerned that requirements that restrict or divert federal funding for critical clean water infrastructure or increase the cost of compliance on borrowers may have unintended consequences that erode the proven effectiveness of the Clean Water SRFs.

<u>The Clean Water SRFs are effective because they fund state priorities for clean water infrastructure.</u>
The Clean Water SRF is a state-run program and each state prioritizes funding for water infrastructure projects based on the needs of their communities. While a laudable intention, the unintended consequence of requiring SRFs to fund specific types of projects – such as green infrastructure and energy and water efficiency projects – displaces funding for those priority projects.

Additionally, the mandate for green infrastructure and energy and water efficiency projects disproportionately impacts additional subsidization for small, rural communities that qualify based affordability. Because many green infrastructure projects don't have a dedicated source of revenue to repay a loan, additional subsidization that would otherwise address affordability is required to meet the federal requirement for green infrastructure projects.

Allowing states full flexibility to use all federal funding for projects based on their priorities ensures the program is responsive to most critical needs of local communities, thereby increasing protection for public health and the environment.

Recommendation: Allow states to fund the projects that are most important to their communities by eliminating the requirement to spend 15% of the federal contribution (capitalization grant) on green infrastructure and energy and water efficiency projects.

Clean Water SRFs should determine the amount of additional subsidization that is needed.

All loans from the Clean Water SRF are subsidized; the interest rate on every SRF loan is below the market rate. In 2018, the average interest rate on an SRF loan was 1.6%, compared to the average market rate of 3.3%, saving ratepayers millions of dollars in interest payments.

Additional subsidization (principal loan forgiveness, negative interest rates or grants) is an important tool to help economically disadvantaged communities, but additional subsidization also permanently removes funding from the revolving loan program which depends on loan repayments to provide a recurring source of revenue to meet the water infrastructure needs in the future.

Mandating a specific amount of additional subsidization may have the unintended consequence of providing grant funding to a community that may be able to repay a loan – just to meet the federally mandated minimum. Conversely, allowing states to determine the amount of additional subsidization that is necessary would ensure economically disadvantaged communities get needed assistance but would allow states to fund water infrastructure projects in more communities. Attached is CIFA's policy paper on additional subsidization.

Additionally, while we appreciate that this provision is voluntary, allowing states to use bond proceeds for additional subsidization could have the unintended consequence of destabilizing the structural integrity of the Clean Water SRF. Bond proceeds, generally, should be used for loans so loan repayments can be used to repay the bonds. Using bond proceed for grants or other forms additional subsidization eliminates the source of revenue to repay the bond.

Recommendation: Maintain the ability of the Clean Water SRF to provide additional subsidization up to 30% of the capitalization grant using the simplified calculation proposed in the bill but eliminate the requirement that a minimum of 10% of the capitalization grant be used in additional subsidization, thereby allowing states to determine the amount of additional subsidization necessary to ensure critical clean water infrastructure projects are completed. Also eliminate the ability of an SRF to use bond proceeds (i.e. the 10-year average of state contributions that exceed the state match requirement) for additional subsidization.

The Clean Water SRF is an infrastructure financing program.
Workforce development in the water sector is vitally needed and the Clean Water SRFs already funds technical assistance, which often includes training. While we appreciate the voluntary nature of this provision, allowing funds to be diverted from the Clean Water SRF to develop workforce development programs could have the unintended consequence of undermining the long-term financial integrity of the subsidized loan program for water infrastructure. Unlike investments in water infrastructure, workforce development programs require a recurring source of revenue to be successful. Tapping the SRF annually to fund workforce development permanently removes funding from the revolving loan program, resulting in less revenue for water infrastructure in the future.

Recommendation: Continue to allow funding for training through §1383.(c)(11) but do not allow funding for the Clean Water SRF to be diverted to a workforce development program.

Compliance with federal requirements on SRF loans increases the cost of water infrastructure.
As we shared in our original letter of support for this legislation (attached), we are concerned that the growth in federal requirements during the last decade has increased the cost of Clean Water SRF loans, which has depressed demand for this effective financing tool and ultimately slowed investment in water infrastructure. Based on a survey of our members last year, the cumulative impact of compliance with all federal requirements is the number one reason voiced by prospective borrowers for postponing investment in critical water infrastructure. Adding complexity to the federal requirements for the efficient use of energy further exacerbates this challenge.

Recommendation: Unleash the full power of federal funding by reducing federal requirements on Clean Water SRF loans, including eliminating the architectural and engineering procurement process on federally funded projects and allowing SRFs to determine the treatment works projects that would benefit from the requirements for a cost and effectiveness analysis and fiscal sustainability plan. Attached are specific policy recommendations in CIFA's initiative, More Protection, Less Process.

Thank you for your leadership and commitment to clean water. Our members look forward to working with the Committee to support increased investment in water infrastructure as this bill advances.

Sincerely,

Jeff Freeman
President, Council of Infrastructure Financing Authorities

Attachments:

- 02.22.2019 Letter of Support for the Water Quality Protection and Job Creation Act of 2019
- Funding Forever: Clean Water and Drinking Water State Revolving Funds
- More Protection, Less Process: Summary of Policy Recommendations

About CIFA

CIFA is a national not-for-profit organization that represents state government agencies, including financing authorities and departments of health and environmental protection, that are responsible for managing the Clean Water and Drinking Water State Revolving Funds.

Executive Director: Deirdre Finn

Board of Directors, Officers:

- Jeff Freeman, Minnesota Pubic Facilities Authority, President
- Kim Colson, North Carolina Department of Environmental Quality, Treasurer
- Jim McGoff, Indiana Financing Authority, Secretary
- Mark Bennett, Arkansas Natural Resources Commission, Past President

Board of Directors:

- EPA Region 1: Nate Keenan, Massachusetts Clean Water Trust
- EPA Region 2: David Zimmer, New Jersey Infrastructure Bank
- EPA Region 3: Brion Johnson, PENNVEST
- EPA Region 4: Angela Knecht, Florida Department of Environmental Protection
- EPA Region 5: Jerry Rouch, Ohio Environmental Protection Agency
- EPA Region 6: Jeff Walker, Texas Water Development Board
- EPA Region 7: William Carr, Kansas Department of Health and the Environment
- EPA Region 8: Mike Perkovich, South Dakota Department of Environment & Natural Resources
- EPA Region 9: Lance Reese, California State Water Resources Control Board
- EPA Region 10: Jeff Nejedly, Washington State Department of Ecology
- Financial Community: Anne Burger Entrekin, Hilltop Securities

CIFA

COUNCIL OF INFRASTRUCTURE FINANCING AUTHORITIES

February 22, 2019

The Honorable Peter DeFazio, Chairman
Transportation & Infrastructure Committee
U.S. House of Representatives
2164 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Sam Graves, Ranking Member
Transportation & Infrastructure Committee
U.S. House of Representatives
2164 Rayburn House Office Building
Washington, D.C. 20515

Dear Representatives DeFazio and Graves:

The Council of Infrastructure Financing Authorities (CIFA) supports the discussion draft of the Water Quality Protection and Job Creation Act of 2019.

The Clean Water State Revolving Fund is the nation's premier program for providing low-cost financing for critical clean water infrastructure projects that protect public health and the environment. Over the last three decades, this unique federal-state partnership has generated an investment of nearly $133 billion in clean water infrastructure, including two-thirds (67%) in non-federal funds.

While increased funding can help accelerate investment in water infrastructure, we are concerned that the growth in federal requirements during the last decade has depressed demand for Clean Water SRF loans. Based on last year's annual survey of our members, the cumulative impact of compliance with all federal requirements is the number one reason voiced by prospective borrowers for postponing investment in critical water infrastructure. We hope to work with you to streamline and reduce the burden of federal requirements on Clean Water SRF borrowers to maximize the program's effectiveness and help more communities proceed with construction of these much needed water infrastructure projects.

Thank you for your leadership and commitment to clean water. Our members look forward to working with the Committee to advance this important legislation.

Sincerely,

Jeff Freeman
President, Council of Infrastructure Financing Authorities

About CIFA

CIFA is a national not-for-profit organization that represents state government agencies, including financing authorities and departments of health and environmental protection, that are responsible for managing the Clean Water and Drinking Water State Revolving Funds.

Executive Director: Deirdre Finn

Board of Directors, Officers:

- Jeff Freeman, Minnesota Pubic Facilities Authority, President
- Terry Deputy, Delaware Department of Natural Resources & Environmental Control, Vice President
- Kim Colson, North Carolina Department of Environmental Quality, Treasurer
- Jim McGoff, Indiana Financing Authority, Secretary
- Mark Bennett, Arkansas Natural Resources Commission, Past President

Board of Directors:

- EPA Region 1: Nate Keenan, Massachusetts Clean Water Trust
- EPA Region 2: David Zimmer, New Jersey Infrastructure Bank
- EPA Region 3: Brion Johnson, PENNVEST
- EPA Region 4: Angela Knecht, Florida Department of Environmental Protection
- EPA Region 5: Scott Campbell, Ohio Water Development Authority
- EPA Region 6: Jeff Walker, Texas Water Development Board
- EPA Region 7: William Carr, Kansas Department of Health and the Environment
- EPA Region 8: Mike Perkovich, South Dakota Department of Environment & Natural Resources
- EPA Region 9: Patricia Incognito, Water Infrastructure Financing Authority of Arizona
- EPA Region 10: Jeff Nejedly, Washington State Department of Ecology
- Anne Burger Entrekin, Hilltop Securities

COUNCIL OF INFRASTRUCTURE FINANCING AUTHORITIES

Funding Forever: Clean Water and Drinking Water State Revolving Funds

During the last three decades, the Clean Water and Drinking Water State Revolving Funds have provided $171 billion for water infrastructure to thousands of communities across the nation. An estimated $75 billion of that funding continues to revolve in the subsidized loan programs, with loan repayments providing a recurring source of revenue for water infrastructure – forever.

A Long-Term Commitment to Funding for Water Infrastructure

Congress established the State Revolving Funds (SRFs) to provide a renewable source of revenue for water infrastructure that protects public health and the environment. SRFs provide utilities and other eligible borrowers with subsidized loans and other forms of low-cost financing to build, repair and improve water infrastructure, such as construction of water treatment plants, replacement of pumps and pipes, restoration of wetlands, and protection of sensitive estuaries.

A National Program, Managed by States, Delivering Results Locally

Established in 1987, the Clean Water SRF replaced a federal grant program which provided funding directly to municipalities for construction of wastewater treatment facilities. Transitioning from a federally-run construction grant program to a state-run loan program offered significant benefits. State management ensures federal investment in infrastructure effectively meets the diverse and evolving needs of thousands of communities across the country. Subsidized loans lower the cost of infrastructure which helps utilities keep water and sewer rates affordable. The revolving nature of the loan program provides a perpetual source of funding for water infrastructure that is protected from potential budget constraints.

Impact of Federal Funding

Since 1988, $65 billion in federal funding to the SRFs has generated $106 billion in non-federal funding for a total investment of $171 billion in water infrastructure.

Federal-State Funding: Partnership and Perpetuity

Since the SRFs were established, Congress has provided an annual federal grant, called a “capitalization grant,” to build the principal or “corpus” of the SRFs. States are required to match 20% of the annual capitalization grant with state funds. Some states also issue bonds to increase availability of funding. Loan repayments make up the rest of the funding in the SRFs. Federal and state contributions, as well as loan repayments, must remain in the SRFs in perpetuity, providing a permanent source of revenue for water infrastructure in the future.

Affordable Investment in Water Infrastructure

All SRF loans are subsidized. State and federal funding allows SRFs to offer loans at or below market rate, which means loan recipients pay less in interest than they would on a loan from a private lender. In 2018, the average interest rate on an SRF loan was 1.6%, compared to the average market rate of 3.3%, saving ratepayers millions of dollars in interest payments.

Meeting Water Infrastructure Needs – Now and in the Future

Maintaining the Financing Integrity and Sustainability of the SRFs

Additional Subsidization ("Add Sub") and Technical Assistance ("Set Asides")

SRFs provide additional subsidization ("add sub") in the form of loan forgiveness, negative interest rate loans, and grants. Federal law caps the amount of the capitalization grant that can be used for additional subsidization. Additionally, the Drinking Water SRF can "set aside" up to 27% of the capitalization grant to provide technical assistance to support water systems through the Public Water Supply Supervision program.

Balancing the Need for "Add Sub" with the Need for Investment in More Projects

Until 2009, Drinking Water SRFs could provide up to 30% of their capitalization grant in additional subsidization to disadvantaged communities; Clean Water SRFs didn't have the ability to provide additional subsidization.

Since 2009, Congress has mandated a percentage of the federal capitalization grant be provided in additional subsidization for both SRFs. Today, federally mandated additional subsidization is 10% for the Clean Water SRF, available to all applicants, and 26% for the Drinking Water SRF, 6% dedicated to disadvantaged communities with the remaining available to all applicants.

Additional subsidization is an important tool to help communities in need, but additional subsidization also reduces the total number of infrastructure projects that can be funded - now and in the future. For example, a Drinking Water SRF can spend up to 86% on set asides and additional subsidization, leaving just 14% for revolving loans to fund water infrastructure in the future.

Maintaining additional subsidization but allowing states to determine how much "add sub" is necessary balances the needs of disadvantaged communities with the demand for investment in more water infrastructure projects. Giving states the ability to make the decision – either to offer additional subsidization or invest in more water infrastructure projects – will maximize federal investment in water infrastructure.

	Subsidized Loans	Additional Subsidization
Perpetual	Every federal grant dollar provided in SRF loans permanently enters circulation for future loans, strengthening the source of funding to meet future water infrastructure needs.	Every federal dollar provided in additional subsidization is permanently removed from circulation, reducing funding to meet future water infrastructure needs.
Recurring ROI (Return-on-Investment)	SRF loans recycle federal and state funding over and over, providing multiple benefits to multiple communities over multiple generations.	Additional subsidization provides a one-time benefit for federal investment in infrastructure.
Shared Responsibility	SRF loans lower the cost of construction while maintaining local participation in infrastructure investment.	Additional subsidization can foster dependence on the federal government for infrastructure investment.
Protected	SRF loans create a source of revenue that is protected from potential budget constraints in the future.	Additional subsidization requires perpetual appropriations.

COUNCIL OF INFRASTRUCTURE FINANCING AUTHORITIES

More Protection, Less Process

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

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.

(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)