



September 7, 2021

The Honorable Patrick Leahy, Chair
Appropriations Committee
U.S. Senate
Washington, D.C. 20510

The Honorable Richard Shelby, Vice Chair
Appropriations Committee
U.S. Senate
Washington, D.C. 20510

The Honorable Jeff Merkley, Chair
Subcommittee on Interior, Environment,
Related Agencies
U.S. Senate
Washington, D.C. 20510

The Honorable Lisa Murkowski, Ranking
Member
Subcommittee on Interior, Environment,
Related Agencies
U.S. Senate
Washington, D.C. 20510

RE: 2022 Appropriations for the Clean Water and Drinking Water State Revolving Funds

Dear Senators:

On behalf of more than 55,000 communities that have received subsidized loans and financial assistance from the Clean Water and Drinking Water State Revolving Funds (SRFs), thank you for your leadership and commitment to the SRFs – the nation’s premier programs for funding water infrastructure that protects public health and the environment.

The Council of Infrastructure Financing Authorities (CIFA) represents the Clean Water and Drinking Water SRFs. CIFA’s members want to raise awareness of three issues that could arise with final passage and enactment of the Infrastructure Investment and Jobs Act (H.R. 3684).

SRF Additional Subsidy: Action is needed to ensure federal funds are used judiciously now and to maintain a permanent source of recurring funding for water infrastructure for the future.

Background: SRFs were established to provide subsidized loans to build water infrastructure that protects public health and the environment. Compared to municipal bonds, subsidized loans cut interest payments in half, saving billions for communities and utility customers across the nation. Today, loan repayments will provide an additional \$85 billion in recurring revenue – in perpetuity – to build water infrastructure, funding projects that may never have been built if the program was established as a traditional grant program. Comparatively,

Congress has provided nearly \$71 billion in federal funding since the programs were established.

Every SRF dollar used for additional subsidy (grants and principal forgiveness) permanently eliminates a recurring source of funding future water infrastructure. SRFs need the ability to provide additional subsidy to help communities who can't otherwise afford to build necessary water infrastructure. However, SRFs only want to use federal funds for additional subsidy when absolutely necessary to ensure the health and safety of communities, protect sensitive natural resources, and keep utility rates affordable, especially for economically distressed communities.

Problem: If the Infrastructure Investment and Jobs Act becomes law and mandates for additional subsidy in the 2022 appropriations bill remain the same as the 2021 appropriations bill, SRFs may be forced to provide grants and grant-equivalents to communities that can afford a subsidized loan, permanently eliminating a source of recurring funding for communities to build water infrastructure in the future.

- Appropriations since 2009 have mandated a portion of the annual capitalization grant be used for additional subsidy. In 2021, the mandate was 10% for the Clean Water SRF and 14% for the Drinking Water SRF.
- The Infrastructure Investment and Jobs Act (H.R. 3684) amends the Clean Water Act and Safe Drinking Water Act to permanently mandate that a portion of the annual capitalization grant be used for additional subsidy for communities that meet disadvantaged community and affordability criteria. The mandate is 10% of the capitalization grant for the Clean Water SRF and 12% of the capitalization grant for the Drinking Water SRF.
- Additionally, a significant amount of appropriations for the SRFs in Infrastructure Investment and Jobs Act must be provided as additional subsidy – 49% in funding for any eligible project, 49% for lead service line replacement, and 100% to remediate emerging contaminants with a focus on perfluoroalkyl and polyfluoroalkyl.

The Infrastructure Investment and Jobs Act will make annual mandates permanent and provide very significant grant and grant-equivalent funding for water infrastructure, making the mandates for additional subsidy in the appropriations bill duplicative and excessive. Attached is a letter to the leadership of the U.S. Senate and U.S. House of Representatives with additional details on the impact of cash match requirements.

Recommendation: Eliminate the federal mandate for additional subsidy in the appropriations bill by striking the entire clause below or restore flexibility to the SRFs by adding the words "up to" before 10% of the and 14%.

Provided further, That up to 10 percent of the funds made available under this title to each State for Clean Water State Revolving Fund capitalization grants and up to 14 percent of the funds made available under this title to each State for Drinking Water State Revolving Fund capitalization grants shall be used by the State to provide additional subsidy to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants (or any combination of these), and shall be so used by the State only where such funds are provided as initial financing for an eligible recipient or to buy, refinance, or restructure the debt obligations of eligible recipients only where such debt was incurred on or after the date of enactment of this Act, or where such debt was incurred prior to the date of enactment of this Act if the State, with concurrence from the Administrator, determines that such funds could be used to help address a threat to public health from heightened exposure to lead in drinking water or if a Federal or State emergency declaration has been issued due to a threat to public health from heightened exposure to lead in a municipal drinking water supply before the date of enactment of this Act:

SRF Cash Match: Action is needed to ensure states can draw down federal funds quickly and efficiently.

Background: States are required to deposit cash in the amount of 20% of the federal capitalization grant into the SRF account before being able to access and draw down the first dollar of federal funding.¹ States that are unable to deposit cash match into their SRFs during the fiscal year the funding is appropriated, or the next fiscal year, will lose their funding (essentially within two fiscal years).²

Problem: States may not have the cash to meet the match requirements for appropriations in both the 2022 budget and the Infrastructure Investment and Jobs Act. Based on these two bills, states could be required to provide \$933 million in cash match for 2022, an increase of 69% from 2021.

- Under the Clean Water Act and Safe Drinking Water Act, states are required to provide cash match in the amount of 20% of the annual federal capitalization grant for SRFs to be able to draw down federal funds. Cumulatively, states contributed \$553 million to meet cash match requirements for 2021 appropriations.
- Under the budget passed by the U.S. House of Representatives, states, cumulatively, will be required to provide \$646 million cash match, an increase of nearly 17% from 2021 appropriations.
- Under the Infrastructure Investment and Jobs Act, states will be required to provide a cash match in the amount of 10% of \$3.8 billion in 2022 appropriations for capitalization

¹ 33 USC §1382 (b)(2) and 42 USC §300j-12 (e)

² 33 USC §1384 (c)(1) and USC 42 §300j-12 (a)(1)(C)

grants for the Clean Water and Drinking Water SRFs. Cumulatively, states will be required to provide \$380 million in cash match for the 2022 appropriation.

States face different challenges based on how cash match is generated, either through state appropriations or through interagency loans and bonds that depend on interest payments from SRF loans to repay debt.³

- States that Appropriate Cash Match: Some states appropriate cash match. Uncertainty about the pandemic and economic recovery, along with constraints from balanced budget requirements, are likely to force state legislatures to make difficult decisions about funding important programs. States that have experienced catastrophic natural disasters, such as Hurricane Ida, flooding, tornados, or wildfires, will face even greater challenges. As a result, states may need to delay appropriations for cash match for the SRFs.
- States that Borrow to Fund Cash Match: Some states make interagency loans or issue bonds to fund cash match. These loans and bonds are secured and repaid using interest payments on SRF subsidized loans, which are provided at below market interest rates. Very low interest rates and federally mandated additional subsidy (requirements to provide federal funds as grants instead of subsidized loans) have significantly eroded this source of revenue for cash match, jeopardizing the ability of SRFs to issue bonds to provide cash match. If SRFs don't have adequate revenue from this source, it will take time, potentially years, to find an alternative source of revenue to provide cash match.

The problem is real. Alaska's Clean Water and Drinking Water SRFs couldn't meet cash match requirements for funding provided in the 2019 Additional Supplemental Appropriation for Disaster Relief Act (ASADRA) and ultimately lost those federal funds. With such significant increases in cash match requirements, it's likely that more states will face similar circumstances.

Recommendation:

- Waive state cash match for 2022 appropriations to offset the cash match requirements in the Infrastructure Investment and Jobs Act.
- Allow states to use State and Local Fiscal Recovery Funds from the American Rescue Plan Act for cash match, which may help some states meet the cash match requirement for 2022.

³ 33 USC §1383 (d)(2) and 42 USC §300j-12 (f)(4)

Clean Watersheds Needs Survey: Action is needed to ensure a robust survey of clean water needs.

Background: Data collection for the first Clean Watersheds Needs Survey since 2012 is expected to begin in early 2022. The Clean Watersheds Needs Survey is much more expansive than the Drinking Water Needs Survey and can be a significant cost to states.

Problem: If the Infrastructure Investment and Jobs Act becomes law, SRFs, many of which have limited staff, may have to decide between focusing on moving federal appropriations into water infrastructure projects or participating in the Clean Watershed Needs Survey.

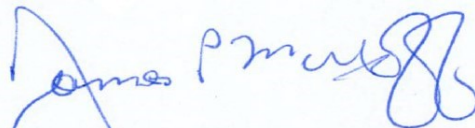
Recommendation: Allow states to use 1/2% of their capitalization grant to participate in the Clean Watershed Needs Survey, which will provide the financial resources to hire new staff or contract the necessary services.

Thank you.

Thank you for your consideration of these recommendations. Your action will ensure SRFs can quickly and efficiently turn federal funding into water infrastructure projects that protect lives and livelihoods.

Please contact Deirdre Finn, CIFA's Executive Director, at dfinn@cifanet.org or (850) 445-9619, with any questions.

Sincerely,



James P McGoff
COO and Director of Environmental Programs
Indiana Finance Authority
CIFA President

Attachment: Letter to leadership of U.S. Senate and U.S. House of Representatives about the impact of cash match requirements for the Clean Water and Drinking Water State Revolving Funds (SRFs)

About CIFA

CIFA is a national not-for-profit organization that represents the Clean Water and Drinking Water State Revolving Funds (SRFs), the nation's premier programs for funding water infrastructure that protects public health and the environment.

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