



OFFICE OF WATER
WASHINGTON, D.C. 20460

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MEMORANDUM

SUBJECT: Maximizing Water Quality and Public Health Benefits by Ensuring Expeditious and Timely Use of All State Revolving Fund Resources

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TO: Water Division Directors
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I. Purpose and Background

The Clean Water and Drinking Water State Revolving Funds are critically important programs for investing in the nation’s water infrastructure. They are designed to generate significant and sustainable water quality and public health benefits across the country. Their impact is amplified by the growth inherent in a revolving loan structure – payment of principal and interest on loans made are available to address future needs. The more quickly funds flow into assistance agreements and begin returning as repayments, the greater the pace of growth in the SRFs. To ensure timely, impactful environmental and public health outcomes, state SRF programs must maximize the use of *all* funds available. This policy memorandum further clarifies expectations associated with the statutory and regulatory “expeditious and timely” fund expenditure directives.¹ This memo sets clear targets and responsibilities for states and the U.S. Environmental Protection Agency, building upon policy memoranda 95-03, 99-05, and 99-09 and reinforcing existing program resources like the [Fund Management](#) and [Cash Flow Modeling](#) Handbooks.

Each of the 102 SRF programs have significant financial resources to facilitate environmental and public health outcomes. To realize these outcomes, states must actively solicit for, commit to, and ultimately *disburse* resources to infrastructure projects. Analysis of the most recent year’s disbursement metric indicates that substantial resources in several states remain idle. There are 16 CWSRF and 19 DWSRF programs that hold more than five times their average annual disbursement;²

¹ 33 U.S.C. §1382(b)(3) and (4); 42 U.S.C. 300j-12 (g)(3)(A); 40 CFR 35.3135(d) and 35.3550(e)(1)

² Based upon state-reported FY 2022 data.

in other words, those states have at least five years' worth of typical cash needs on hand. This is inconsistent with the expenditure-related statutory and regulatory directives.

The statutes set a two federal fiscal year limit for states to apply for and for the EPA to award SRF federal capitalization grants to states.³ Funds remaining unobligated after that time are reallocated by EPA.⁴ Once awarded, federal capitalization funds are available to the state upon capitalization grant payment⁵ and must be committed within one year of each payment.⁶ These federal capitalization grants are only one source of funding (i.e., "inflows") to state SRFs. Other inflows include state match, bond proceeds, and repayments and interest earnings from previously signed loans.

II. Program Implementation

Given the maturity and complexity of the SRFs, the EPA evaluates state performance holistically. States must build a robust pipeline of tangible projects to facilitate timely loan signings (i.e., commitments), and must strategically manage commitments and disbursements for all the financial resources in its SRF in accordance with timely and expeditious expenditure requirements. The EPA's evaluation of an SRF's performance is an ongoing and iterative process engaging the state and is based on the existing annual review cycle and annual review guidance.

Commitments

The EPA is restating the long-standing statutory, regulatory, and policy requirement that states have one year from funds receipt to commit funds into signed final assistance (e.g., loan) agreements. This applies to all funds in an SRF program, including federal capitalization grants, state match, repayments, and interest earnings. This is explicitly required in statute and regulation for federal capitalization grant funds and state match dollars.⁷ As established by EPA policy in the 1990s, "[i]t remains our policy that all funds in the fund, including repayments, should be used within a year of receipt."⁸ In municipal finance, SRF principal and interest repayments are one of the most reliable and predictable sources of debt-based cash flows. Therefore, loan amortization schedules allow state SRF programs to model these inflows to plan for and ensure expeditious commitment, often times even in advance of receipt (i.e., programs with fund utilizations greater than 100%). Leveraged bond proceeds create similarly predictable inflows.

Disbursements

Loans are integral to the program because they are the legal instruments through which projects are financed. A borrower (e.g., a water or wastewater system) submitting an invoice to the state SRF for reimbursement signals that actual construction activity has occurred. Therefore, *disbursements* of loan funds are a more accurate indicator of SRF program results than commitments and are critical to evaluate and understand whether the expenditure of all funds adhere to timely and expeditious standards.

³ 33 U.S.C. §1384(c)(1) and 42 U.S.C. 300j-12 (a)(1)(C)

⁴ 33 U.S.C. §1384(c)(2) and 42 U.S.C. 300j-12 (a)(1)(E)

⁵ 40 CFR 35.3155 and 35.3560

⁶ 40 CFR 35.3135(c) and 35.3550(e)(1)

⁷ 33 U.S.C. §1382(b)(3); 40 CFR § 35.3135(c) and §35.3550(e)(1)

⁸ See *Expeditious and Timely Use of SRF Funds* memorandum (99-05), February 1, 1999.

The EPA will use the cash-to-average-annual-disbursement ratio as the primary indicator to gauge disbursements.⁹ A target of two years will be viewed by the EPA as adequate performance, with programs at or under one year acknowledged for exceptional performance. The EPA regions should use the suite of other financial indicators from the SRF Data System and financial audits to understand a program more granularly and to bolster analysis of the program's use of funds.

The EPA is establishing a cash-to-average-annual-disbursement threshold of five years to indicate unacceptable performance. State programs at or above this threshold require enhanced engagement from the region to work with the state to more expeditiously disburse funds to benefit public health and the environment. Enhanced regional oversight requires additional discussions with the state SRFs and additional review by the regional project officers and financial analysts throughout the year and especially during the annual review. The timely and expeditious expenditure (i.e., disbursement) of funds requires the timely and expeditious *commitment* of funds (i.e., timely loan signings). Thus, paramount to identifying and understanding disbursement issues is determining whether a program is committing all funds in signed final loans agreements within one year of receipt.

III. Oversight

Annual State Reviews and Program Evaluation Reports (PERs)

As part of regions' review of the holistic financial performance of each state's program, regions will review states' commitments and disbursements metrics during the annual state review. If the state is not meeting the commitment and/or disbursement thresholds, the region must discuss this with the state during the review to verify data, discern root cause(s), and to help the state managers problem-solve.

If the state is not committing funds within one year of receipt, the region must document this in the PER the first year it is observed by the region. After such documentation, the state program must respond by including in their Intended Use Plan¹⁰ a process to commit existing uncommitted funds, as well as new funds they will be receiving, within one year of receipt. Regions will review these submitted plans as part of capitalization grant applications to ensure they are reasonable, actionable, and have the capacity to be effective over time. In addition, where enhanced engagement is warranted, regions should regularly meet with the state throughout the year to ensure that the state is making effective progress and improving their program performance.

As is contemplated in policy memos 99-05 and 99-09, if the state does not submit a plan, or if the plan is not reasonable, actionable, and effective (i.e., if state performance does not meaningfully improve), regions must again document and escalate this issue in the next PER. If performance still does not improve, EPA headquarters' expectation is that regions will pursue noncompliance actions, which may include temporarily or permanently withholding capitalization grants. Precedence for this exists within the SRF programs. Existing policy memos¹¹ clarify the flexibilities afforded the regions for non-compliance determinations and grant withholding expectations.

⁹ See *Implementation of Additional SRF Financial Indicators* memorandum, April 26, 2018.

¹⁰ Policy memo 99-05 lays out expectation "If all available funds are not committed to projects, then the IUP must contain a plan which details how and when the funds will be used."

¹¹ Policy memo 95-03 lays out the legal justification and memos 99-05 and 99-09 further clarify and give regions additional oversight tools.

Note that this is an iterative process between the regions and the states based on the existing annual review cycle and guidance. EPA recognizes that given different baselines (i.e., current state-by-state performance levels), some states may take longer to meet the commitment and disbursement thresholds. However, the expectation is for meaningful year-over-year improvement to bring programs in-line with statutory and regulatory requirements.

Role of EPA Headquarters

The EPA headquarters SRF branches will continue supporting the regions and states in the timely and expeditious use and expenditure of all funds by offering trainings, providing contractor support, and creating tools like the Fund Management and Cash Flow Modeling Handbooks. Trainings will include deep dive sessions for regional financial analysts on a three-year cycle and the EPA will expand offerings to include general SRF financial literacy trainings for states and regions. Additionally, the Infrastructure Investments and Jobs Act, also known as the Bipartisan Infrastructure Law, made new technical assistance and administration resources available to the EPA to support state programs, while also providing substantial resources directly for communities in need of SRF assistance regardless of where they are in project development or need identification.

Role of EPA Regions

Regions have a critical role in supporting the SRF programs by ensuring adequate resources are available to conduct necessary program oversight. Together, the CW and DW SRFs represent almost one-half of the Agency's budget. Regional management's support for staff identifying and addressing findings is essential: in this case, documenting and elevating as needed findings in the PERs and undertaking enforcement actions and grant withholdings where they are deemed necessary. This policy memo reemphasizes the need to attract and retain adequate levels of highly qualified staff to conduct the financial oversight and program management reviews commensurate with EPA's statutory and fiduciary responsibilities.

Regional project officers and financial analysts must be familiar with SRF program and financial requirements, all financial reports, and must conduct oversight and utilize policy memos and tools such as the Fund Management Handbook and annual review guidance to ensure that all SRF programs are operating in compliance with the Clean Water and Safe Drinking Water Acts. This involves analyzing and documenting in the PER programs where funds are not committed and/or disbursed in a timely and expeditious manner; citing policy and regulation in the PER to support potential non-compliance determinations; and documenting program improvement or non-improvement over time. Financial analysts must be familiar with all SRF ratios, rates, and approaches to trend and comparative analytics to gauge holistic SRF financial health. It is imperative that the legal framework, expectation setting, and program performance be documented adequately for the EPA to take any necessary actions. The above-mentioned trainings and resources from headquarters will assist the Regions in meeting these responsibilities.

IV. Acknowledgement and Contacts

The EPA acknowledges that the influx of additional federal funding from the Bipartisan Infrastructure Law may present short-term challenges with meeting the one-year commitment expectations. This may be particularly challenging in states receiving significant DWSRF Lead Service Line Replacement funding, which has more limited project and activity eligibilities. EPA headquarters will support the regions in working closely with state SRF managers to help identify, address, and overcome challenges

in building a robust pipeline of high-priority projects for the BIL funds, as well as for all the funds in the SRFs.

The EPA looks forward to continuing to work with our regional and state partners in the effective implementation of the CW and DW SRFs. For further information please contact Josh Amaris at Amaris.Josh@epa.gov or (202) 564-1904 of the CWSRF program or Nick Chamberlain at Chamberlain.Nick@epa.gov or (202) 564-1871 of the DWSRF program.

Attachments:

1. [Policy Memo 95-03](#)
2. [Policy Memo 99-05](#)
3. [Policy Memo 99-09](#)
4. [SRF Fund Management Handbook](#)
5. [Cash Flow Modeling Handbook](#)