



## POSITION PAPER ON POLICY

# Federal Procurement Mandates

### Recommendation

Oppose new mandates on procurement of manufactured goods for water and water reuse infrastructure projects that accept federal funding.

### Funding Programs

- Title XVI
- Drinking Water State Revolving Fund (DWSRF)
- Clean Water State Revolving Fund (CWSRF)
- Water Infrastructure and Finance Innovation Act (WIFIA)

### Background

Federal procurement mandates, such as the Buy America Act, require infrastructure projects receiving federal funding to be built with materials produced *exclusively* in the United States. A variety of executive orders, appropriations and legislation have recently applied these mandates to water infrastructure projects.

Based on the experience with similar provisions in the 2009 American Reinvestment and Recovery Act, extending the Buy America mandates to water infrastructure funding programs will cause unintended consequences that will impair the development of critical water infrastructure.

For example, a single electronic device used in water treatment may be sold by an American company but assembled with some subcomponents produced by companies around the world. Under this new mandate, that device may be disqualified and ineligible for purchase because it doesn't meet the *exclusive* requirement of the mandate.

To comply with the new mandate, utilities would be required to track the subcomponents of products offered by thousands of suppliers, which will exponentially increase the complexity of paperwork and record-keeping. As a result, water utilities would experience supply chain interruptions, consequential obligation to use lower technologies, increased equipment and

overhead costs, and delays in infrastructure construction. The increased costs and delays in infrastructure development will inevitably impact taxpayers or utility ratepayers.

Additionally, water and wastewater providers need access to the best technologies to meet federal and state water quality standard which protect the human and environmental health. Limiting access to the best available clean water technologies could threaten the ability of utilities to comply with these regulations, which, in turn, could put the public at risk.

Finally, it is unclear whether applying the Buy America provisions to water and wastewater projects provides a clear and measurable benefit to the domestic economy. Many American companies may be shut out of the market for these important infrastructure projects simply because a fraction of the subcomponents used in their products are manufactured elsewhere.

These factors taken together could deter local communities from upgrading or building the water infrastructure essential for providing a safe and reliable drinking water supply, mitigating the impact of extreme weather events such as droughts and floods, and guarding against cyber intrusions threatening water security. As a consequence, communities with aging or inadequate water infrastructure will struggle to attract private investment and new business, which are fundamental to spurring economic growth and creating jobs.

Additionally, non-water infrastructure projects requiring the relocation of water or wastewater utilities, such as highways or runways, can transpose the same material burdens onto the responsible water or wastewater utility, even if that water utility wouldn't otherwise be bound by the restrictive provisions.

## Benefits

- Utilities will have the flexibility to purchase the best available clean water technologies.
- Construction and critical repairs to our nation's water infrastructure will remain on time and on budget, benefiting both consumers and taxpayers.