

115TH CONGRESS
2D SESSION

S. 3121

To amend the Federal Water Pollution Control Act, the Safe Drinking Water Act, and the Water Infrastructure Finance and Innovation Act of 2014 to require maximum open and free competition in procurement for projects receiving assistance under those Acts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 2018

Mr. PAUL introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Federal Water Pollution Control Act, the Safe Drinking Water Act, and the Water Infrastructure Finance and Innovation Act of 2014 to require maximum open and free competition in procurement for projects receiving assistance under those Acts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Water Infrastructure
5 Transparency Act”.

1 **SEC. 2. CLEAN WATER STATE REVOLVING FUNDS.**

2 Section 603 of the Federal Water Pollution Control
3 Act (33 U.S.C. 1383) is amended by adding at the end
4 the following:

5 “(j) MAXIMUM OPEN AND FREE COMPETITION.—In
6 providing assistance from the water pollution control re-
7 volving fund of the State established in accordance with
8 this title for a project, the State shall ensure that—

9 “(1) to the maximum extent practicable, each
10 procurement transaction for the project is conducted
11 in a manner that provides maximum open and free
12 competition;

13 “(2) in developing the specifications for the
14 project, the recipient considers the use of all mate-
15 rials normally suitable for such a project that are
16 commensurate with sound engineering practices and
17 project requirements; and

18 “(3) with respect to each solicitation of an offer
19 for procurement for the project, the offer—

20 “(A) incorporates a clear and accurate de-
21 scription of the technical requirements for the
22 material, product, or service to be procured;
23 and

24 “(B) defines the performance or other sa-
25 lient requirements of the procurement.”.

1 **SEC. 3. DRINKING WATER STATE REVOLVING FUNDS.**

2 Section 1452(a) of the Safe Drinking Water Act (42
3 U.S.C. 300j–12(a)) is amended by adding at the end the
4 following:

5 “(5) MAXIMUM OPEN AND FREE COMPETI-
6 TION.—In providing assistance from a State loan
7 fund for a project, the State shall ensure that—

8 “(A) to the maximum extent practicable,
9 each procurement transaction for the project is
10 conducted in a manner that provides maximum
11 open and free competition;

12 “(B) in developing the specifications for
13 the project, the public water system considers
14 the use of all materials normally suitable for
15 such a project that are commensurate with
16 sound engineering practices and project require-
17 ments; and

18 “(C) with respect to each solicitation of an
19 offer for procurement for the project, the
20 offer—

21 “(i) incorporates a clear and accurate
22 description of the technical requirements
23 for the material, product, or service to be
24 procured; and

25 “(ii) defines the performance or other
26 salient requirements of the procurement.”.

1 **SEC. 4. WATER INFRASTRUCTURE FINANCE AND INNOVA-**
 2 **TION ACT OF 2014.**

3 Section 5028(a) of the Water Infrastructure Finance
 4 and Innovation Act of 2014 (33 U.S.C. 3907(a)) is
 5 amended by adding at the end the following:

6 “(7) MAXIMUM OPEN AND FREE COMPETI-
 7 TION.—The Secretary or the Administrator, as ap-
 8 plicable, may not provide financial assistance to a
 9 project under this subtitle unless—

10 “(A) to the maximum extent practicable,
 11 each procurement transaction for the project is
 12 conducted in a manner that provides maximum
 13 open and free competition;

14 “(B) in developing the specifications for
 15 the project, the eligible entity considers the use
 16 of all materials normally suitable for such a
 17 project that are commensurate with sound engi-
 18 neering practices and project requirements; and

19 “(C) with respect to each solicitation of an
 20 offer for procurement for the project, the
 21 offer—

22 “(i) incorporates a clear and accurate
 23 description of the technical requirements
 24 for the material, product, or service to be
 25 procured; and

- 1 “(ii) defines the performance or other
- 2 salient requirements of the procurement.”.

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