



February 17, 2017

EPA Docket Center
U.S. Environmental Protection Agency
Mail Code 4201C
1200 Pennsylvania Ave. NW
Washington, DC 20460

RE: Docket ID EPA-HQ-OW-2016-0569, Credit Assistance for Water Infrastructure Projects, Interim Final Rule

&

Docket ID EPA-HQ-OW-2016-0568, Fees for Water Infrastructure Project Applications under the Water Resources Reform and Development Act

Dear Sir or Madam,

The American Water Works Association, the National Association of Clean Water Agencies, the Water Environment Federation and WaterReuse appreciate the opportunity to provide comments on the agency's proposed fees and other program features for the Water Infrastructure Finance and Innovation Act (WIFIA) program. Our organizations supported creation of WIFIA and continue to support the U.S. Environmental Protection Agency's (EPA's) actions to implement it. WIFIA will provide much-needed financial assistance to help address the nation's pressing water infrastructure challenges. Our comments are offered with the intent of helping the program to proceed smoothly and effectively for water utilities and the communities they serve.

We also commented on the agency's information collection request last July. Our comments here reflect our views on what the agency has done since and on other issues.

Generally speaking, we are pleased with EPA's implementation of the WIFIA program to date. We applaud the two-step process, starting with a no cost-no obligation Letter of Intent that triggers a dialogue between EPA finance staff and the interested utility at which point EPA staff will only encourage application by those entities that have a reasonable chance of securing a loan. We are pleased to see that the agency dropped language from its proposed rule last July that sought the previous three rates studies and schedules from applicants. Some considered this language confusing in that prospective applicants might not think they are eligible if they only had two studies on hand or if the time frames for their studies were too far apart.

Also, with regard to general administration, we recommend that after the first round of applications is processed, EPA staff conduct a process review to see if or where the application process could be streamlined or made more user-friendly.

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III. Program Information

C. Project Eligibility

This section lists eight categories of projects eligible for WIFIA loans, with no apparent ranking. No. 4 is "a project for repair, rehabilitation, or replacement of a treatment works, community water system, or aging water distribution or waste collection facility (including a facility that serves a population or community of an Indian reservation)."

Later in this document (III. Priorities), EPA identifies four project priorities for the first Notice of Funding Availability. The fourth is "Repair, rehabilitation, and replacement of infrastructure and conveyance systems."

However, in the Jan. 10 Notice of Funding Availability (NOFA) for WIFIA (82 FR 2933, pages 2933-2938; VII. Selection Process and Criteria), the agency lists "in order of relative weight for this LOI submittal period, the WIFIA selection criteria are as follows..."

(xii) The extent to which the project addresses needs for repair, rehabilitation, or replacement of a treatment works, community water system, or aging water distribution or wastewater collection system: 10 percent."

This ranking for infrastructure repair, rehabilitation and replacement was also published in the *WIFIA Program Handbook*, Appendix C, issued by EPA this past January.

We strongly recommend that the repair, rehabilitation and replacement of water systems be listed not only as the top priority on project eligible for WIFIA support, but also the top priority in the NOFA. It is the primary water infrastructure need that triggered interest in creation of WIFIA.

Q. Selection Criteria

With regard to project selection criteria, we note that EPA has added two criteria to the 11 statutory ones and added text to three existing criteria.

We strongly endorse the new criteria reading, “the extent to which the project addresses the needs for repair, rehabilitation or replacement of a treatment works, community water system, or aging water distribution or wastewater collection system”... The agency notes that this is added to align project criteria with statutorily defined project eligibilities and provide credit for projects that meet the growing needs for repair, rehabilitation, etc. These criteria were a primary reason so many water and local government organizations supported WIFIA in the first place.

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Fees

The issue of fees in WIFIA processes has been a concern in the water community. In our July comments, we had asked that since Congress was in a pattern of appropriating slightly more for WIFIA administrative costs than was originally authorized, that EPA consider reducing some fees using the additional administrative funds. In this current request for comments on fees, the agency states that in the event that Congress appropriates more funds than are necessary to administer the program, EPA will strive use those extra funds to reduce fees. We applaud the agency for taking this position, and strongly encourage the agency to seek additional opportunities to reduce fees.

Congress resolved part of the fee concerns in its passage of the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016, it permitted WIFIA loan recipients to finance application fees in the loan itself. In addition, the WIIN Act permitted applications to count eligible project costs incurred prior to submission of an application toward the 51 percent of project costs that must come from non-WIFIA sources.

Conclusion

Despite the concerns and recommendations raised in these comments, we do believe that EPA staff are trying very hard to implement a WIFIA program that helps address larger-scale water infrastructure projects and provide assistance to smaller communities under criteria provided uniquely developed for them. Overall, staff has molded what looks to be a very useful tool for the water infrastructure “toolbox.” Our organizations look forward to continued dialogue with the agency as this program progresses and to educating our own members on the potential financing opportunities under the WIFIA program.

Sincerely,

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