

(b) *Effective period.* This section is effective from 10 a.m. through 6 p.m. on May 22, 2021 and May 23, 2021.

(c) *Enforcement periods.* This section will be enforced from 10 a.m. through 6 p.m. daily.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry of vessels or persons into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Port Arthur (COTP) or a designated representative. They may be contacted on VHF-FM channel 13 or 16, or by phone at by telephone at 409-719-5070.

(2) The COTP or a designated representative may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(3) The COTP or a designated representative may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(4) The COTP or a designated representative will terminate enforcement of the special local regulations at the conclusion of the event.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: April 22, 2021.

**Molly A. Wike,**

*Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Zone Port Arthur.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 35

[FRL 10022-77-OW]

#### Notification of Funding for Credit Assistance Under the Water Infrastructure Finance and Innovation Act (WIFIA) Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notification of funding availability (NOFA).

**SUMMARY:** In the Further Consolidated Appropriations Act, 2021, signed by the President on December 27, 2020, Congress provided \$54.5 million in budget authority for the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) program to cover the subsidy required to provide a much larger amount of credit assistance. The Environmental Protection Agency (EPA or Agency) estimates that this budget authority may provide approximately \$5.5 billion in credit assistance and may finance approximately \$11 billion in water infrastructure investment. The purpose of this NOFA is to solicit letters of interest (LOIs) from prospective borrowers seeking credit assistance from EPA. EPA will evaluate and select proposed projects described in the LOIs using the selection criteria established in statute and regulation, and further described in this NOFA as well as the WIFIA program handbook. This NOFA establishes relative weights that will be used in the current LOI submittal period for the selection criteria, explains budgetary scoring factors to determine budgetary scoring compliance, and outlines the process that prospective borrowers should follow to be considered for WIFIA credit assistance. In addition, EPA reserves the right to make additional awards using FY 2021 appropriated funding or available carry-over resources, consistent with Agency policy and guidance, if additional funding is available after the original selections are made. This could include holding a subsequent selection round.

**DATES:** The LOI submittal period will begin on April 30, 2021, and end at 11:59 p.m. EDT on July 23, 2021.

**ADDRESSES:** Prospective borrowers should submit all LOIs electronically via email at: [wifia@epa.gov](mailto:wifia@epa.gov) or via EPA's SharePoint site. To be granted access to the SharePoint site, prospective borrowers should contact [wifia@epa.gov](mailto:wifia@epa.gov) and request a link to the SharePoint site, where they can securely upload their LOIs. Requests to upload documents should be made no later than 5:00 p.m. EDT on July 21, 2021.

EPA will notify prospective borrowers that their LOI has been received via a confirmation email.

Prospective borrowers can access additional information, including the WIFIA program handbook and application materials, on the WIFIA website: <https://www.epa.gov/wifia/>.

**SUPPLEMENTARY INFORMATION:** For a project to be considered during a selection round, EPA must receive an LOI, via email or SharePoint, before the corresponding deadline listed above. EPA is only able to accept emails of 25

MB or smaller with unzipped attachments (EPA cannot accept zipped files). If necessary due to size restrictions, prospective borrowers may submit attachments separately, as long as they are received by the deadline.

When writing an LOI, prospective borrowers should fill out the WIFIA LOI form and follow the guidelines contained on the WIFIA program website: <https://www.epa.gov/wifia/wifia-application-materials>. Prospective borrowers should provide the LOI and any attachments as Microsoft Word documents or searchable PDF files, whenever possible, to facilitate EPA's review. Additionally, prospective borrowers should ensure that financial information, including the pro forma financial statement, is in a formula-based Microsoft Excel document. Section VI of this NOFA provides additional details on the LOI's content.

EPA will invite each prospective borrower whose project proposal is selected for continuation in the process to submit a final application. Final applications should be received by EPA within 365 days of the invitation to apply, but EPA may extend the deadline on a case-by-case basis if the LOI schedule signals additional time may be needed.

EPA will host a series of webinars to provide further information about submitting an LOI. The webinar schedule and registration instructions can be found on the WIFIA program website: [www.epa.gov/wifia](http://www.epa.gov/wifia).

Prospective borrowers with questions about the program or interest in meeting with the WIFIA program staff may send a request to [wifia@epa.gov](mailto:wifia@epa.gov). EPA will meet with all prospective borrowers interested in discussing the program, but only prior to submission of an LOI.

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#### I. Background

Congress enacted WIFIA as part of the Water Resources Reform and Development Act of 2014 (WRRDA). Codified at 33 U.S.C. 3901-3914, WIFIA authorizes a federal credit program for water infrastructure projects to be administered by EPA. WIFIA authorizes EPA to provide federal credit assistance in the form of secured (direct) loans or

loan guarantees for eligible water infrastructure projects.

The WIFIA program's mission is to accelerate investment in our nation's water and wastewater infrastructure by providing long-term, low-cost, supplemental credit assistance under customized terms to creditworthy water infrastructure projects of national and regional significance.

## II. Program Funding

Congress appropriated \$54.5 million in funding to cover the subsidy cost of providing WIFIA credit assistance. The subsidy cost covers the federal government's risk that the loan may not be paid back. EPA anticipates that the average subsidy cost for WIFIA-funded projects will be relatively low; therefore, this funding can be leveraged into a much larger amount of credit assistance. EPA estimates that this appropriation will allow the Agency to provide approximately \$5.5 billion<sup>1</sup> in long-term, low-cost financing to water infrastructure projects and accelerate approximately \$11 billion in infrastructure investment around the country.

## III. Eligibility Requirements

The WIFIA statute and implementing rules set forth eligibility requirements for prospective borrowers, projects, and project costs. The requirements outlined below are described in greater detail in the WIFIA program handbook.

### A. Eligible Applicants

Prospective borrowers must be one of the following to be eligible for WIFIA credit assistance:

- (i) A corporation;
- (ii) A partnership;
- (iii) A joint venture;
- (iv) A trust;
- (v) A federal, state, or local governmental entity, agency, or instrumentality;
- (vi) A tribal government or a consortium of tribal governments; or
- (vii) A state infrastructure financing authority.

### B. Eligible Projects

The WIFIA statute authorizes EPA to provide credit assistance for a wide variety of projects. Projects must be one of the following to be eligible for WIFIA credit assistance:

(i) One or more activities that are eligible for assistance under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)), notwithstanding the public ownership requirement under paragraph (1) of that subsection;

(ii) One or more activities described in section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j-12(a)(2));

(iii) A project for enhanced energy efficiency in the operation of a public water system or a publicly owned treatment works;

(iv) 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);

(v) A brackish or sea water desalination project, including chloride control, a managed aquifer recharge project, a water recycling project, or a project to provide alternative water supplies to reduce aquifer depletion;

(vi) A project to prevent, reduce, or mitigate the effects of drought, including projects that enhance the resilience of drought-stricken watersheds;

(vii) Acquisition of real property or an interest in real property—

(a) If the acquisition is integral to a project described in paragraphs (i) through (v); or

(b) Pursuant to an existing plan that, in the judgment of the Administrator, would mitigate the environmental impacts of water resources infrastructure projects otherwise eligible for assistance under this section;

(viii) A combination of projects, each of which is eligible under paragraph (i) or (ii), for which a state infrastructure financing authority submits to the Administrator a single application; or

(ix) A combination of projects secured by a common security pledge, each of which is eligible under paragraphs (i), (ii), (iii), (iv), (v), (vi), or (vii), for which an eligible entity, or a combination of eligible entities, submits a single application.

### C. Eligible Costs

As defined under 33 U.S.C. 3906 and described in the WIFIA program handbook, eligible project costs are costs associated with the following activities:

(i) Development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting,

preliminary engineering and design work, and other preconstruction activities;

(ii) Construction, reconstruction, rehabilitation, and replacement activities;

(iii) The acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation (including acquisitions pursuant to 33 U.S.C. 3905(8)), construction contingencies, and acquisition of equipment; and

(iv) Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction. Capitalized interest on WIFIA credit assistance may not be included as an eligible project cost.

### D. Threshold Requirements

For a project to be considered for WIFIA credit assistance, a project must meet the following five criteria:

(i) The project and obligor shall be creditworthy;

(ii) A project shall have eligible project costs that are reasonably anticipated to equal or exceed \$20 million, or for a project eligible under paragraph (2) or (3) of 33 U.S.C. 3905 serving a community of not more than 25,000 individuals, project costs that are reasonably anticipated to equal or exceed \$5 million;

(iii) Project financing shall be repayable, in whole or in part, from state or local taxes, user fees, or other dedicated revenue sources that also secure the senior project obligations of the project; shall include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and may have a lien on revenues subject to any lien securing project obligations;

(iv) In the case of a project that is undertaken by an entity that is not a state or local government or an agency or instrumentality of a State or local government, or a tribal government or consortium of tribal governments, the project that the entity is undertaking shall be publicly sponsored; and

(v) The applicant shall have developed an operations and maintenance plan that identifies adequate revenues to operate, maintain, and repair the project during its useful life.

### E. Federal Requirements

All projects receiving WIFIA assistance must comply, if applicable, with federal requirements and regulations, including (but not limited to):

<sup>1</sup> This estimated loan volume is provided for reference only. Consistent with the Federal Credit Reform Act of 1990 and the requirements of the Office of Management and Budget, the actual subsidy cost of providing credit assistance is based on individual project characteristics and calculated on a project-by-project basis. Thus, actual lending capacity may vary.

(i) American Iron and Steel Requirement, 33 U.S.C. 3914, <https://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement>;

(ii) Labor Standards, 33 U.S.C. 1372, <https://www.dol.gov/whd/govcontracts/dbra.htm>;

(iii) National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, <https://www.epa.gov/nepa>;

(iv) Floodplain Management, Executive Order 11988, 42 FR 26951, May 24, 1977, <https://www.archives.gov/federal-register/codification/executive-order/11988.html>;

(v) Archeological and Historic Preservation Act, 16 U.S.C. 469–469c, <https://www.nps.gov/ archeology/tools/laws/ahpa.htm>;

(vi) Clean Air Act, 42 U.S.C. 7401 *et seq.*, <https://www.epa.gov/clean-air-act-overview>;

(vii) Clean Water Act, 33 U.S.C. 1251 *et seq.*, <https://www.epa.gov/aboutepa/about-office-water>;

(viii) Coastal Barrier Resources Act, 16 U.S.C. 3501 *et seq.*, <https://www.fws.gov/ecological-services/habitat-conservation/cbra/Act/index.html>;

(ix) Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.*, <https://coast.noaa.gov/czm/about/>;

(x) Endangered Species Act, 16 U.S.C. 1531 *et seq.*, <https://www.fws.gov/endangered/>;

(xi) Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12898, 59 FR 7629, February 16, 1994, <https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf>;

(xii) Protection of Wetlands, Executive Order 11990, 42 FR 26961, May 25, 1977, as amended by Executive Order 12608, 52 FR 34617, September 14, 1987, <https://www.epa.gov/cwa-404>;

(xiii) Farmland Protection Policy Act, 7 U.S.C. 4201 *et seq.*, [https://www.nrcs.usda.gov/wps/portal/nrcs/detail/?cid=nrcs143\\_008275](https://www.nrcs.usda.gov/wps/portal/nrcs/detail/?cid=nrcs143_008275);

(xiv) Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c, as amended, <https://www.fws.gov/>;

(xv) Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, <https://www.fisheries.noaa.gov/resource/document/magnuson-stevens-fishery-conservation-and-management-act>;

(xvi) National Historic Preservation Act, 16 U.S.C. 470 *et seq.*, <https://www.nps.gov/ archeology/tools/laws/NHPA.htm>;

(xvii) Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, <https://www.epa.gov/ground-water-and-drinking-water>;

(xviii) Wild and Scenic Rivers Act, 16 U.S.C. 1271 *et seq.*, <https://rivers.gov/>;

(xix) Debarment and Suspension, Executive Order 12549, 51 FR 6370, February 18, 1986, <https://www.archives.gov/federal-register/codification/executive-order/12549.html>;

(xx) Demonstration Cities and Metropolitan Development Act, 42 U.S.C. 3301 *et seq.*, as amended, and Executive Order 12372, 47 FR 30959, July 14, 1982, [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning);

(xxi) New Restrictions on Lobbying, 31 U.S.C. 1352, <https://www.epa.gov/grants/lobbying-and-litigation-information-federal-grants-cooperative-agreements-contracts-and-loans>;

(xxii) Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to Federal contracts, grants, or loans under 42 U.S.C. 7606 and 33 U.S.C. 1368, and Executive Order 11738, 38 FR 25161, September 12, 1973, <https://www.archives.gov/federal-register/codification/executive-order/11738.html>;

(xxiii) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq.*, <https://www.gpo.gov/fdsys/pkg/FR-2005-01-04/pdf/05-6.pdf>;

(xxiv) Age Discrimination Act, 42 U.S.C. 6101 *et seq.*, <https://www.eeoc.gov/laws/statutes/adea.cfm>;

(xxv) Equal Employment Opportunity, Executive Order 11246, 30 FR 12319, September 28, 1965, [https://www.dol.gov/ofccp/regs/compliance/ca\\_11246.htm](https://www.dol.gov/ofccp/regs/compliance/ca_11246.htm);

(xxvi) Section 13 of the Clean Water Act, Public Law 92–500, codified in 42 U.S.C. 1251, <https://www.epa.gov/ocr/external-civil-rights-compliance-office-title-vi>;

(xxvii) Section 504 of the Rehabilitation Act, 29 U.S.C. 794, supplemented by Executive Orders 11914, 41 FR 17871, April 29, 1976 and 11250, 30 FR 13003, October 13, 1965, <https://www.epa.gov/ocr/external-civil-rights-compliance-office-title-vi>;

(xxviii) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, <https://www.epa.gov/environmentaljustice/title-vi-and-environmental-justice>; and

(xxix) Participation by Disadvantaged Business Enterprises in Procurement under Environmental Protection Agency Financial Assistance Agreements, 73 FR 15904, March 26, 2008, <https://www.epa.gov/resources-small-businesses>.

Detailed information about some of these requirements is outlined in the WIFIA program handbook. Further information can be found at the links above.

#### IV. Fiscal Year 2021 Office of Management and Budget Budgetary Scoring Determination

To comply with Public Law 116–260, a project selected for WIFIA financing using funding appropriated in FY 2021 will be assessed using two initial screening questions and sixteen scoring factors. These questions will help the Office of Management and Budget (OMB) determine compliance with budgetary scoring rules, a process that will be conducted in parallel to EPA’s LOI evaluation process outlined in this NOFA. The questions may be found in **Federal Register** publication: Water Infrastructure Finance and Innovation Act Program (WIFIA) Criteria Pursuant to Public Law 116–94 85 FR 39189, June 30, 2020. These questions are also published in the WIFIA program handbook and further information about the scoring process may be referenced therein. EPA encourages project applicants to review the scoring criteria and provide sufficient information in the LOI or as an attachment to the LOI to facilitate EPA and OMB review of the prospective project in light of the scoring criteria. EPA may contact prospective borrowers after the LOI is submitted if clarification is needed to answer the budgetary scoring determination questions.

#### V. Types of Credit Assistance

Under WIFIA, EPA is permitted to provide credit assistance in the form of secured (direct) loans or loan guarantees. Each prospective borrower should list the estimated total capital costs of the project, broken down by activity type and differentiating between eligible project costs and ineligible project costs in the LOI and application.

##### A. Maximum Amount of WIFIA Credit Assistance

The maximum amount of WIFIA credit assistance to a project is 49 percent of eligible project costs in almost all instances.

##### B. Exception for Small Communities

Recognizing the need that exists in both small and large communities to invest in infrastructure, Congress stipulated in statute that EPA set aside 15 percent of the budget authority appropriated each year for small communities, defined as systems that serve a population of 25,000 or less. Of the funds set aside, any amount not

obligated by June 1 of the fiscal year for which budget authority is set aside may be used for any size community. Regardless of whether EPA obligates these funds by June 1 of the fiscal year for which budget authority is set aside, EPA will endeavor to use 15 percent of its budget authority for small communities.

EPA knows that small communities can face extraordinary challenges paying for needed water infrastructure projects. Therefore, EPA is offering small community prospective borrowers the opportunity to request credit assistance up to 80 percent of the eligible project costs in addition to a lower threshold for project costs (as explained in Section III.D(ii) of this NOFA) and the small community set aside. Small community needs represent a disproportionate amount of the overall water infrastructure needs nationwide. By offering credit assistance up to 80 percent, EPA is making a project's financing simpler and more accessible and reducing transaction costs for small communities, enabling them to finance and implement needed upgrades and improvements to their infrastructure.

## VI. Letters of Interest and Applications

Each prospective borrower will be required to submit an LOI and, if invited, an application to EPA to be considered for approval. This section describes the LOI submission and application submission.

### A. Letter of Interest (LOI)

Prospective borrowers seeking a WIFIA loan must submit an LOI describing the project fundamentals and addressing the WIFIA selection criteria.

The primary purpose of the LOI is to provide adequate information to EPA to:

- (i) Validate the eligibility of the prospective borrower and the prospective project,
- (ii) perform a preliminary creditworthiness assessment,
- (iii) perform a preliminary engineering feasibility assessment, and
- (iv) evaluate the project against the selection criteria. Based on its review of the information provided in the LOI, EPA will invite prospective borrowers to submit applications for their projects. Prospective borrowers are encouraged to review the WIFIA program handbook to help create the best justification possible for the project and a cohesive and comprehensive LOI submittal.

Prospective borrowers should utilize the LOI form on the WIFIA website and ensure that sufficient detail about the project is provided for EPA's review. EPA will notify a prospective borrower if its project is deemed ineligible as described in Section III of this NOFA.

Below is guidance on what EPA recommends be included in the LOI.

**A. Key Loan Information.** In this section, the prospective borrower provides a general description of the project, purpose, loan amount, total eligible project costs, application submission date, loan close date, and population information. The prospective borrower also includes information such as its legal name, address, website, Dun and Bradstreet Data Universal Number System (DUNS) number, and employer/taxpayer identification number.

In the case of a project that is undertaken by an entity that is not a state or local government or an agency or instrumentality of a state or local government, or a tribal government or consortium of tribal governments, the project that the entity is undertaking must be publicly sponsored. Public sponsorship means that the prospective borrower can demonstrate, to the satisfaction of EPA, that it has consulted with the affected state, local, or tribal government in which the project is located, or is otherwise affected by the project, and that such government supports the proposed project. A prospective borrower can show support by including a certified letter signed by the approving state, tribal, or municipal department or similar agency; governor, mayor or other similar designated authority; statute or local ordinance; or any other means by which government approval can be evidenced.

**B. Engineering and Credit.** In this section, the prospective borrower provides any technical reports or written information relevant to evaluating the project and a high-level schedule of dates for the project or projects included in the LOI. To evaluate creditworthiness, the prospective borrower provides a credit rating letter that is less than a year old or is actively maintained. If the prospective borrower does not have a current rating letter, the borrower describes how the senior obligations of the project will achieve an investment-grade rating and includes a pro-forma and three years of audited financial statements.

**C. Selection Criteria.** In this section, the prospective borrower describes the potential policy benefits achieved using WIFIA assistance with respect to each of the WIFIA program selection criteria. These criteria and their weights are enumerated in Section VIII of this NOFA and further explained in the WIFIA program handbook.

**D. Contact Information.** In this section, the prospective borrower identifies the point of contact with

whom the WIFIA program should communicate regarding the LOI. To complete EPA's evaluation, the WIFIA program staff may contact a prospective borrower regarding specific information in the LOI.

**E. Certifications.** In this section, the prospective borrower certifies that it will abide by all applicable laws and regulations, if selected to receive funding.

**F. SRF Notification.** In this section, the prospective borrower acknowledges that EPA will notify the state infrastructure financing authority in the state in which the project is located that it submitted an LOI and provide the submitted LOI and source documents to that authority. The prospective borrower may opt out of having its LOI and source documents shared.

### B. Application

After EPA concludes its evaluation of the LOIs, a selection committee invites prospective borrowers to apply based on the scoring of the selection criteria, while taking into consideration geographic and project diversity. The selection committee may choose to combine multiple LOIs or separate projects from a prospective borrower based on the creditworthiness review and may offer an alternative amount of WIFIA assistance than requested in the LOI.

An invitation to apply for WIFIA credit assistance does not guarantee EPA's approval, which remains subject to a project's continued eligibility, including creditworthiness, the successful negotiation of terms acceptable to EPA, and the availability of funds at the time at which all necessary recommendations and evaluations have been completed. However, the purpose of EPA's LOI review is to pre-screen prospective borrowers to the extent practicable. It is expected that EPA will only invite projects to apply if it anticipates that those projects are able to obtain WIFIA credit assistance. Detailed information needs for the application are listed in the application form and described in the WIFIA program handbook.

## VII. Fees

There is no fee to submit an LOI. For information about application and post-closing costs, please refer to the WIFIA fee rule, Fees for Water Infrastructure Project Applications under WIFIA, 40 CFR 35.10080.

## VIII. Selection Criteria

This section specifies the criteria and process that EPA will use to evaluate

LOIs and award applications for WIFIA assistance.

The selection criteria described below incorporate statutory eligibility requirements, supplemented by the WIFIA regulations at 40 CFR 35.10055. EPA has also identified the following strategic objectives as priorities for this LOI submittal period:

(i) *Economically stressed communities*: To support EPA's goal of considering equity and environmental justice in various aspects of our work, EPA is committed to increasing access to financing for water and wastewater infrastructure projects for communities experiencing economic hardship. EPA is prioritizing projects that support improved water infrastructure in economically stressed communities. Communities that meet national benchmarks will receive additional points.

(ii) *Protection against extreme weather events*: As extreme weather events become increasingly common and continue to damage critical infrastructure that provide water and wastewater services to communities across the nation, EPA is prioritizing financing for projects that protect the nation's water infrastructure from the impacts of climate change.

(iii) *Repair, rehabilitate, and replace aging infrastructure and conveyance systems*: Many communities face formidable challenges in providing adequate and reliable water and wastewater services. Existing water and wastewater infrastructure is aging, and investment is not always keeping up with the needs. EPA is prioritizing projects that will help meet these needs for the nation's aging infrastructure.

(iv) *Lead and emerging contaminants*: EPA is working to strengthen its implementation of the Safe Drinking Water Act to ensure we protect and build upon the enormous public health benefits achieved through the provision of safe drinking water throughout the country. To reflect this priority, EPA will give greater consideration to projects that reduce exposure to lead and address emerging contaminants including per- and polyfluoroalkyl substances (PFAS).

(v) *New or innovative approaches*: To promote the incorporation of new and innovative approaches into projects, EPA is prioritizing projects that incorporate innovative approaches such as but not limited to the following: Cybersecurity; the use of energy efficient parts and systems; the use of renewable or alternative sources of energy; green infrastructure; and the development of alternative sources of drinking water through, for example,

desalination, aquifer recharge or water recycling, and resource recovery.

EPA's priorities reflect water sector challenges that require innovative tools to assist local governments in managing and adapting to our most pressing public health and environmental challenges. These priorities are reflected in the scoring methodology of the selection criteria below, described in greater detail in the WIFIA program handbook.

The WIFIA selection criteria are divided into three categories: Project Impact, Project Readiness, and Borrower Creditworthiness. Each criterion within a category can provide a range of points with the maximum number of points indicated. Each category can provide up to 100 points out of a total of 300 available points, and the category-specific and overall scores will help inform the selection committee's deliberations within the overall WIFIA framework. For the Project Readiness and Borrower Creditworthiness categories, criteria scores are supplemented by points awarded from the preliminary engineering feasibility analysis and preliminary creditworthiness assessment, respectively, described in the WIFIA program handbook. The criteria are as follows:

Project Impact:

(i) *5 points*: The extent to which the project is nationally or regionally significant, with respect to the generation of economic and public benefits, such as (1) the reduction of flood risk; (2) the improvement of water quality and quantity, including aquifer recharge; (3) the protection of drinking water, including source water protection; and (4) the support of international commerce. 33 U.S.C. 3907(b)(2)(A); 40 CFR 35.10055(a)(1).

(ii) *20 points*: The extent to which the project (1) protects against extreme weather events, such as floods or hurricanes; or (2) helps maintain or protect the environment: 33 U.S.C. 3907(b)(2)(F); 40 CFR 35.10055(a)(4); 40 CFR 35.10055(a)(5).

(iii) *5 points*: The extent to which the project serves regions with significant energy exploration, development, or production areas: 33 U.S.C. 3907(b)(2)(G); 40 CFR 35.10055(a)(6).

(iv) *5 points*: The extent to which a project serves regions with significant water resource challenges, including the need to address: (1) Water quality concerns in areas of regional, national, or international significance; (2) water quantity concerns related to groundwater, surface water, or other water sources; (3) significant flood risk; (4) water resource challenges identified

in existing regional, state, or multistate agreements; or (5) water resources with exceptional recreational value or ecological importance. 33 U.S.C. 3907(b)(2)(H); 40 CFR 35.10055(a)(7).

(v) *5 points*: The extent to which the project addresses identified municipal, state, or regional priorities. 33 U.S.C. 3907(b)(2)(I); 40 CFR 35.10055(a)(8).

(vi) *20 points*: 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. 40 CFR 35.10055(a)(12).

(vii) *20 points*: The extent to which the project serves economically stressed communities, or pockets of economically stressed rate payers within otherwise non-economically stressed communities. 40 CFR 35.10055(a)(13).

(viii) *20 points*: The extent to which the project reduces exposure to lead in the nation's drinking water systems or addresses emergent contaminants. 40 CFR 35.10055(b).

Project Readiness:

(i) *40 points*: The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a federal credit instrument is obligated for the project under [WIFIA]. 33 U.S.C. 3907(b)(2)(J); 40 CFR 35.10055(a)(9).

(ii) *40 points*: Preliminary engineering feasibility analysis score. 33 U.S.C. 3907(a)(2); 33 U.S.C. 3907(a)(6); 40 CFR 35.10015(c); 40 CFR 35.10045(a).

(iii) *20 points*: The extent to which the project uses new or innovative approaches. 33 U.S.C. 3907(b)(2)(D); 40 CFR 35.10055(a)(3).

Borrower Creditworthiness:

(i) *10 points*: The likelihood that assistance under [WIFIA] would enable the project to proceed at an earlier date than the project would otherwise be able to proceed. 33 U.S.C. 3907(b)(2)(C); 40 CFR 35.10055(a)(2).

(ii) *10 points*: The extent to which the project financing plan includes public or private financing in addition to assistance under [WIFIA]. 33 U.S.C. 3907(b)(2)(B); 40 CFR 35.10055(a)(10).

(iii) *10 points*: The extent to which assistance under [WIFIA] reduces the contribution of Federal assistance to the project. 33 U.S.C. 3907(b)(2)(K); 40 CFR 35.10055(a)(11).

(iv) *10 points*: The amount of budget authority required to fund the Federal credit instrument made available under [WIFIA]. 33 U.S.C. 3907(b)(2)(E).

(v) *60 points*: Preliminary creditworthiness assessment score. 33 U.S.C. 3907(a)(1); 40 CFR 35.10015(c); 40 CFR 35.10045(a)(1); 40 CFR 35.10045(a)(4); 40 CFR 35.10045(b).

In addition to the selection criteria score, EPA is required by 33 U.S.C. 3902(a) to “ensure a diversity of project types and geographical locations.”

Following analysis by the WIFIA program staff, a final score is calculated for each project. Projects will be selected in order of score, subject to the requirement to ensure a diversity of project types and geographical locations. To ensure diversity, EPA will establish a ceiling for each project type and geographical location. EPA will select projects in rank order up until the point that the ceiling is reached. Thereafter, the next highest project that adds diversity will be selected.

The scoring scales and guidance used to evaluate each project against the selection criteria are available in the WIFIA program handbook. Prospective borrowers considering WIFIA should review the WIFIA program handbook and discuss how the project addresses each of the selection criteria in the LOI submission.

**Authority:** 33 U.S.C. 3901–3914; 40 CFR part 35.

**Michael S. Regan,**  
Administrator.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 35

[FRL 10022–78–OW]

#### Notification of Funding for Credit Assistance Under the State Infrastructure Finance Authority Water Infrastructure Finance and Innovation Act (SWIFIA) Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notification of funding availability (NOFA).

**SUMMARY:** In the Consolidated Appropriations Act, 2021, signed by the President on December 27, 2020, Congress provided \$5 million in budget authority solely for the cost of direct loans or guaranteed loans to state infrastructure financing authority borrowers for projects described in the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA). The state infrastructure financing authority WIFIA (SWIFIA) program will use this

amount to cover the subsidy required to provide a much larger amount of credit assistance. Environmental Protection Agency (EPA or Agency) estimates that this budget authority may provide approximately \$1 billion in credit assistance and may finance approximately \$2 billion in water infrastructure investment. The purpose of this NOFA is to solicit letters of interest (LOIs) from prospective state infrastructure financing authority borrowers seeking credit assistance from EPA under the SWIFIA program. EPA will evaluate and select proposed projects described in the LOIs using the selection criteria established in the statute, and further described in this NOFA as well as the WIFIA program handbook. This NOFA explains budgetary scoring factors to determine budgetary scoring compliance and outlines the process that prospective borrowers should follow to be considered for SWIFIA credit assistance. In addition, EPA reserves the right to make additional awards under this announcement, consistent with Agency policy and guidance, if additional funding is available after the original selections are made.

**DATES:** The LOI submittal period will begin on April 30, 2021, and end at 11:59 p.m. EDT on June 25, 2021.

**ADDRESSES:** Prospective borrowers should submit all LOIs electronically via email at: [wifia@epa.gov](mailto:wifia@epa.gov) or via EPA’s SharePoint site. To be granted access to the SharePoint site, prospective borrowers should contact [wifia@epa.gov](mailto:wifia@epa.gov) and request a link to the SharePoint site, where they can securely upload their LOIs. Requests to upload documents should be made no later than 5 p.m. EDT on June 21, 2021.

EPA will notify prospective borrowers that their LOI has been received via a confirmation email.

Prospective borrowers can access additional information, including the WIFIA program handbook and application materials, on the WIFIA website: <https://www.epa.gov/wifia>.

**SUPPLEMENTARY INFORMATION:** For a project to be considered during a selection round, EPA must receive an LOI, via email or SharePoint, before the corresponding deadline listed above. EPA is only able to accept emails of 25 MB or smaller with unzipped attachments (EPA cannot accept zipped files). If necessary due to size restrictions, prospective borrowers may submit attachments separately, as long as they are received by the deadline.

When writing an LOI, prospective borrowers should complete the SWIFIA LOI form and follow the guidelines

contained on the WIFIA program website: <https://www.epa.gov/wifia/wifia-application-materials>. Prospective borrowers should provide the LOI and any attachments as Microsoft Word documents or searchable PDF files, whenever possible, to facilitate EPA’s review. Section VI of this NOFA provides additional details on the LOI’s content.

EPA will invite each prospective borrower whose project proposal is selected for continuation in the process to submit a final application. Final applications should be received by EPA within 365 days of the invitation to apply.

EPA will host a webinar to provide state infrastructure finance authority prospective borrowers further information about the SWIFIA loans and how to submit an LOI. The webinar date and registration directions can be found on the WIFIA program website: <https://www.epa.gov/wifia/wifia-webinars>.

Prospective borrowers with questions about the program or interest in meeting with the WIFIA program staff may send a request to [wifia@epa.gov](mailto:wifia@epa.gov). EPA will meet with all prospective borrowers interested in discussing the program prior to submission of an LOI.

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#### I. Background

Congress enacted WIFIA as part of the Water Resources Reform and Development Act of 2014 (WRRDA). Codified at 33 U.S.C. 3901–3914, WIFIA authorizes a federal credit program for water infrastructure projects to be administered by EPA. WIFIA authorizes EPA to provide federal credit assistance in the form of secured (direct) loans or loan guarantees for eligible water infrastructure projects.

Congress amended WIFIA in America’s Water Infrastructure Act of 2018 (AWIA) to authorize federal credit assistance exclusively for state infrastructure financing authority borrowers.

The WIFIA program’s mission is to accelerate investment in our nation’s water infrastructure by providing long-term, low-cost, supplemental credit assistance under customized terms to creditworthy water infrastructure