

The Administrator, Michael S. Regan, signed the following Notice of Funding Availability (NOFA) on September 3, 2024, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the NOFA, it is not the official version. Please refer to the official version in a forthcoming FR publication (<https://www.federalregister.gov/>). Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

ENVIRONMENTAL PROTECTION AGENCY

[FRL 12140-01-OW]

Notice of Funding Availability for Credit Assistance under the State Infrastructure

Financing Authority Water Infrastructure Finance and Innovation Act Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of funding availability.

SUMMARY: The purpose of this notice of funding availability (NOFA) is to solicit letters of interest (LOIs) from prospective state infrastructure financing authority borrowers seeking credit assistance from the U.S. Environmental Protection Agency (EPA) under the State Infrastructure Financing Authority Water Infrastructure Finance and Innovation Act (SWIFIA) program. EPA estimates that it may lend approximately \$1 billion to help finance approximately \$2 billion in water infrastructure investment.

DATES: LOIs submitted on or after October 1, 2024, will be reviewed using the scoring criteria outlined in this NOFA.

ADDRESSES: Prospective borrowers should submit all LOIs electronically via EPA's SharePoint site. To be granted access to the SharePoint site, prospective borrowers should contact wifia@epa.gov and request a link to the SharePoint site, where they can securely upload

their LOIs and then email wifia@epa.gov once the complete LOI package has been uploaded to the SharePoint site. 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>.

FOR FURTHER INFORMATION CONTACT:

Amelia Letnes, Office of Water, Environmental Protection Agency; telephone number: (202) 564-5627; or email: letnes.amelia@epa.gov (preferred).

SUPPLEMENTARY INFORMATION:

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I. Background

Congress enacted the Water Infrastructure Finance and Innovation Act (WIFIA) as part of the Water Resources Reform and Development Act of 2014 (WRRDA). Codified at 33 U.S.C. 3901-3915, WIFIA authorizes a Federal credit program for water infrastructure projects to be

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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, wastewater, and stormwater infrastructure by providing long-term, low-cost, supplemental credit assistance under customized terms to creditworthy water infrastructure projects of national and regional significance. Additionally, the WIFIA program is implementing five key Administration priorities in this 2024 NOFA:

A. Increasing Investment in Economically Stressed Communities

EPA encourages the submission of projects that address the ever-increasing needs of economically stressed and disadvantaged communities to ensure they benefit from investments in water infrastructure, and therefore improve the public health and livability of these communities.

B. Making Rapid Progress on Lead Service Line Replacement

Many drinking water systems still have lead service lines. EPA encourages the submission of drinking water infrastructure projects that will help make rapid progress on replacing lead service lines to reduce exposure to lead and improve public health. There is no safe level of lead in drinking water. Full lead service line replacement can be an effective method to reduce drinking water lead levels. Because of this, WIFIA-funded projects involving lead service line replacement should include a plan to conduct full lead service line replacement.

C. Addressing PFAS and Emerging Contaminants

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EPA encourages the submission of projects that focus on reducing exposure to perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other emerging contaminants through drinking water and/or projects that help address discharges of emerging contaminants from wastewater and/or stormwater systems.

D. Strengthening Climate Resilience in the Water Sector

EPA supports long-term strategies to create a more resilient water infrastructure to address the increasing impacts of extreme weather. This includes projects that protect against drought through conserving water, promoting water efficiency and reuse, and protecting and diversifying communities' sources of water. Additionally, this includes projects that address areas seeing sustained or intermittent increases in water flow, such as projects that address flood risks due to stormwater, projects that address the impacts of combined sewer overflows, and septic to sewer efforts where septic systems are undermined by rising groundwater. Taken together, these efforts can help communities address water quantity and quality concerns.

E. Supporting One Water Innovation and Resilience

One of the defining features of WIFIA is the broad range of eligible projects that EPA can fund to flexibly support priority needs. EPA encourages borrowers to submit applications for water infrastructure projects that are new and innovative in regard to energy efficiency, such as onsite wind or solar energy as well as methane digesters or similar projects that work to reduce overall greenhouse gas emissions and may also support energy independence at the system level. In addition, EPA encourages the submission of water infrastructure projects that are more resilient to all threats—whether they are natural disasters or threats such as bioterrorism and cyber-attacks.

II. Program Funding

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A. WIFIA Program Appropriation

Congress appropriated \$5 million in funding to cover the subsidy cost of providing SWIFIA 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 SWIFIA-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 it to provide approximately \$1 billion¹ in long-term, low-cost financing to water infrastructure projects and accelerate approximately \$2 billion in infrastructure investment around the country.

B. Funding Availability Period

LOIs may be submitted by prospective borrowers and will be received by EPA on a rolling basis. LOIs shall be submitted using the SWIFIA LOI form found at <https://www.epa.gov/wifia>. Under the rolling process, LOIs will continually be reviewed and selected based on available funds. The publication of this NOFA does not impact LOIs previously submitted to EPA, which continue to be reviewed based on the applicable requirements at the time of submission.

LOIs received on or after October 1, 2024, will be evaluated as described in section VIII of this document. This NOFA provides guidance on all SWIFIA funding authority available including funding from previous years. Any funding authority not obligated in the fiscal year for which it is authorized remains available for obligation in subsequent years.

III. Eligibility Requirements

¹ 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.

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 found at <https://www.epa.gov/wifia/wifia-program-handbook>.

A. Eligible Applicants

Prospective borrowers must be a state infrastructure financing authority to be eligible for SWIFIA credit assistance. EPA defines state infrastructure financing authority as the state entity established or designated by the governor of a state to receive a capitalization grant provided by, or otherwise carry out the requirements of, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et. seq.) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12).

B. Eligible Projects

To be eligible for SWIFIA credit assistance, the SWIFIA project must be a combination of projects, each of which is eligible for assistance under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(2)), for which a state infrastructure financing authority submits to the Administrator 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 for the SWIFIA project 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.

IV. Budgetary Scoring Determination for Non-Federal Projects

To comply with Public Law 116-260, a project selected for WIFIA financing using funding appropriated in FY2024 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 the *Federal Register* publication titled "Water Infrastructure Finance and Innovation Act Program (WIFIA) Criteria Pursuant to the Further Consolidated Appropriations Act, 2020" (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 considering the scoring criteria.

V. Types and Amount of Credit Assistance

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Under SWIFIA, EPA is offering senior loans, on parity with a state infrastructure financing authority's other senior capital market debt of the same credit quality, to help the state infrastructure financing authority lend to multiple projects throughout the state.

A. Minimum Project Costs

A SWIFIA project must have eligible project costs that are reasonably anticipated to equal or exceed \$20 million.

B. Maximum Amount of SWIFIA Credit Assistance

The maximum amount of SWIFIA credit assistance to a state infrastructure financing authority is 49 percent of estimated eligible total costs of the eligible projects that are included in the SWIFIA project.

C. SWIFIA Loan Structures

Prospective SWIFIA borrowers may request one the following loan structures:

(i) EPA accepts the state infrastructure financing authority's existing capital market debt indenture (to the extent the terms are permissible under Federal law and regulation and WIFIA program policies); or

(ii) The state infrastructure financing authority accepts EPA's standard terms. More information on EPA's standard terms is available at www.epa.gov/wifia.

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 SWIFIA loan must submit an LOI describing the SWIFIA project fundamentals and addressing the SWIFIA selection criteria.

The primary purpose of the LOI is to provide adequate information to EPA to validate the eligibility and creditworthiness of the prospective borrower and the prospective SWIFIA project and determine the extent to which the SWIFIA project meets the statutory 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 SWIFIA project is deemed ineligible as described in section IV of this document.

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

1. **Loan Information:** The prospective borrower provides information about its legal name, business address, program website, employer/ taxpayer identification number, Unique Entity ID from SAM.gov, requested SWIFIA loan amount and SWIFIA project cost amount, type of SRF loans (clean water, drinking water, or both), and requested loan structure.
2. **Supporting Documents:** The prospective borrower provides the most recent version of the following documents: Intended Use Plan (IUP), SRF Operating Agreements with EPA Regional Office, documentation of the priority setting system, and bond indenture (if applicable).

3. **Contact Information:** The prospective borrower identifies the points 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.

4. **Certifications.** The prospective borrower certifies that it will abide by all applicable laws and regulations, if selected to receive funding.

B. Application

After EPA concludes its evaluation of a complete LOI package, a selection committee will invite the prospective borrower to apply based on satisfaction of the eligibility requirements. So long as budget authority remains available, EPA expects that all eligible state infrastructure financing authority prospective borrowers will be invited to apply for a SWIFIA loan.

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 prospective borrowers to apply if it anticipates that those prospective borrowers 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 SWIFIA assistance.

The selection criteria described are the statutory selection criteria for state infrastructure financing authority borrowers. Following its eligibility determination, EPA will determine the extent to which the SWIFIA project meets the statutory selection criteria. They are as follows:

- (i) 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).
- (ii) 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).
- (iii) 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).
- (iv) 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) 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).
- (vi) 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).
- (vii) 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).

(viii) 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).

(ix) 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).

(x) 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).

IX. Federal Requirements

All projects receiving WIFIA assistance must comply with the applicable Federal requirements. Compliance with Federal requirements is not required for submitting a letter of interest, being invited to apply for a WIFIA loan, or submitting an application. The WIFIA program will review selected projects for compliance with Federal requirements once they have submitted an application. Additional information about Federal compliance requirements is available in the WIFIA program handbook and at <https://www.epa.gov/wifia/wifia-federal-compliance-requirements>.

Authority: 33 U.S.C.3901-3915; 40 CFR part 35.

Michael S. Regan,

Administrator