

The Administrator, Andrew R. Wheeler, signed the following Notice of Funding Availability (NOFA) on March 29, 2019, 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 XXXX-XX-OW]

40 CFR Part 35

Notice of Funding Availability (NOFA) for Applications for Credit Assistance under the Water Infrastructure Finance and Innovation Act (WIFIA) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of funding availability.

SUMMARY: In the Consolidated Appropriations Act, 2019, signed by the President on February 15, 2019, Congress provided \$60 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 the Agency) estimates that this budget authority may provide approximately \$6 billion in credit assistance and may finance approximately \$12 billion in water infrastructure investment, while covering increased costs associated with implementing a larger program. The

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purpose of this notice of funding availability (NOFA) is to solicit letters of interest (LOIs) from prospective borrowers seeking credit assistance from the EPA.

The 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 and outlines the process that prospective borrowers should follow to be considered for WIFIA credit assistance.

In addition, the 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 **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and end at 11:59 pm EDT on **[INSERT 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Prospective borrowers should submit all LOIs electronically via email at: wifia@epa.gov or 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. Requests to upload documents should be made no later than 5:00 pm EDT on **[INSERT 86 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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

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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, the EPA must receive a LOI, via email or SharePoint, before the corresponding deadline listed above. The EPA is only able to accept e-mails of 25 MB or smaller with unzipped attachments (the 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 a LOI, prospective borrowers are encouraged to fill out the WIFIA LOI form and follow the guidelines contained on the WIFIA program website: <https://www.epa.gov/wifia/how-apply-wifia-assistance-0#materials>. Prospective borrowers should provide the LOI and any attachments as Microsoft Word documents or searchable PDF files, whenever possible, to facilitate the 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 V of this NOFA provides additional details on the LOI's content.

The 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 the EPA within 365 days of the invitation to apply.

The EPA will host a series of in-person sessions and webinars to provide further information about submitting a LOI. The in-person sessions and webinar schedule and registration directions can be found on the WIFIA program website: 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. The EPA will meet with all prospective borrowers interested in discussing the program, but only prior to submission of a 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

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program for water infrastructure projects to be administered by the EPA. WIFIA authorizes the 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 drinking water and wastewater infrastructure projects of national and regional significance.

II. Program Funding

Congress appropriated \$60 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. The 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. The EPA estimates that this appropriation will allow the Agency to provide approximately \$6 billion¹ in long-term, low-cost financing to water and wastewater projects and accelerate approximately \$12 billion in infrastructure investment around the country.

Recognizing the need that exists in both small and large communities to invest in infrastructure, Congress stipulated in statute that the EPA set aside 15 percent of the budget authority appropriated each year for small communities, defined as systems that serve a

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.

population of less than 25,000. 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 the EPA obligates these funds by June 1 of the fiscal year for which budget authority is set aside, the EPA will endeavor to use 15 percent of its budget authority for small communities.

In addition to assisting both large and small projects and communities, WIFIA may be an attractive borrowing mechanism for a variety of different borrower and credit types. The EPA anticipates that municipalities, private entities, project financings, State Revolving Fund programs, and tribes will benefit from the low cost and debt structuring flexibilities that the WIFIA loans can offer.

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 in order 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 the EPA to provide credit assistance for a wide variety of projects. Projects must be one of the following in order 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 paragraph (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 paragraphs (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):

(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 Fed. Reg. 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 Fed. Reg. 7629, February 16, 1994, <https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf>;

(xii) Protection of Wetlands, Executive Order 11990, 42 Fed. Reg. 26961, May 25, 1977, as amended by Executive Order 12608, 52 Fed. Reg. 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;

(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 Fed. Reg. 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 Fed. Reg. 30959, July 14, 1982, http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning;

(xxii) 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>;

(xxiii) 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 Fed. Reg. 25161, September 12, 1973,
<https://www.archives.gov/federal-register/codification/executive-order/11738.html>;

(xxiv) 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>;

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

(xxvi) Equal Employment Opportunity, Executive Order 11246, 30 Fed. Reg. 12319, September 28, 1965, https://www.dol.gov/ofccp/regs/compliance/ca_11246.htm;

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

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

(xxix) 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

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(xxx) Participation by Disadvantaged Business Enterprises in Procurement under the Environmental Protection Agency's Financial Assistance Agreements, 73 Fed. Reg. 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. Types of Credit Assistance

Under WIFIA, the EPA is permitted to provide credit assistance in the form of secured (direct) loans or loan guarantees. The maximum amount of WIFIA credit assistance to a project is 49 percent of eligible project costs. 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.

V. Letters of Interest and Applications

Each prospective borrower will be required to submit a LOI and, if invited, an application to the EPA in order 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 a LOI describing the project fundamentals and addressing the WIFIA selection criteria.

The primary purpose of the LOI is to provide adequate information to the 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, the 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 are encouraged to utilize the LOI form on the WIFIA website and ensure that sufficient detail about the project is provided for the EPA's review. The 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 should be included in the LOI.

A. Prospective Borrower Information. In this section, the prospective borrower describes the entity seeking WIFIA assistance, including 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 the 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. Project Plan. In this section, the prospective borrower provides a general description of the project, including its location, population served, permit number(s), purpose, design features, and development schedule. The prospective borrower describes how the project can be categorized as one of the project types eligible for WIFIA assistance as described in the program handbook. The prospective borrower includes other relevant information that could affect the development of the project, such as community support, pending legislation, or litigation. In this section, the prospective borrower summarizes the status of the project's environmental review, engineering report, operations and maintenance agreements, and other approvals or analyses that are integral to the project's development.

C. Financing Plan. In this section, the prospective borrower indicates the requested type and amount of WIFIA credit assistance. In addition, the prospective borrower details the proposed sources and uses of funds for the project. The discussion of proposed financing should identify the source(s) of revenue or other security that would be pledged to the WIFIA assistance. As part of the description of its financial condition, the prospective borrower should include its year-end audited financial statements for the past three

years, as available. Additionally, the prospective borrower describes the credit characteristics of the project and how the senior obligations of the project will achieve an investment-grade rating, as well as the anticipated rating on the WIFIA instrument. The prospective borrower should also include a summary financial pro forma, presented in a formula-based Microsoft Excel document, as well as revenue and expense projections for at least ten years.

- D. **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 VII of this NOFA and further explained in the WIFIA program handbook.

- E. **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 the EPA's evaluation, the WIFIA program staff may contact a prospective borrower regarding specific information in the LOI.

- F. **Certifications.** In this section, the prospective borrower certifies that it will abide by all applicable laws and regulations, including NEPA, the Federal Water Pollution Control Act, the American Iron and Steel requirements, and federal labor standards, among others, if selected to receive funding.

G. SRF Notification. In this section, the prospective borrower acknowledges that the EPA will notify the state infrastructure financing authority in the state in which the project is located that it submitted a 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 the EPA concludes its evaluation of the LOIs, a selection committee will invite 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 less WIFIA assistance than requested in the LOI.

An invitation to apply for WIFIA credit assistance does not guarantee the EPA's approval, which remains subject to a project's continued eligibility, including creditworthiness, the successful negotiation of terms acceptable to the EPA, and the availability of funds at the time at which all necessary recommendations and evaluations have been completed. However, the purpose of the EPA's LOI review is to pre-screen prospective borrowers to the extent practicable. It is expected that the 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.

VI. Fees

There is no fee to submit a LOI. The final fee rule, Fees for Water Infrastructure Project Applications under WIFIA, 40 C.F.R. § 35.10080, was signed by the EPA on June 19, 2017, and establishes the fees related to the provision of federal credit assistance under WIFIA. Each invited applicant must submit, concurrent with its application, a non-refundable Application Fee of \$25,000 for projects serving communities of not more than 25,000 individuals or \$100,000 for all other projects. Applications will not be evaluated until the Application Fee is paid. For successful applicants, this fee will be credited toward final payment of a Credit Processing Fee, assessed following financial close, to reimburse the EPA for actual engineering, financial, and legal costs. In the event a final credit agreement is not executed, the borrower is still required to reimburse the EPA for the costs incurred. Borrowers may finance these fees with WIFIA credit assistance.

VII. Selection Criteria

This section specifies the criteria and process that the 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 C.F.R. § 35.10055. The EPA has also identified the following strategic objectives as priorities for this LOI submittal period:

(i) Readiness to proceed: In order to ensure the efficient use of limited federal resources for infrastructure finance, a project's readiness to proceed toward development, including loan closing and the commencement of construction, is an Agency priority.

(ii) Provide for clean and safe drinking water: the EPA is working to strengthen its implementation of the Safe Drinking Water Act to ensure we protect and build upon the

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enormous public health benefits achieved through the provision of safe drinking water throughout the country. One of the Agency's highest priorities include reducing exposure to lead and addressing emerging contaminants, including per- and polyfluoroalkyl substances (PFAS), in the nation's drinking water systems.

(iii) Repair, rehabilitate, and replace aging infrastructure and conveyance systems: Many communities face formidable challenges in providing adequate and reliable water and wastewater infrastructure services. Existing water and wastewater infrastructure in some of these communities is aging, and investment is not always keeping up with the needs. The EPA estimates the national funding need for capital improvements for such facilities totals approximately \$740 billion over the next 20 years. In many cases, meeting these needs will require significant increases in capital investment.

(iv) Water reuse and recycling: the EPA is highlighting water reuse and recycling as a new or innovative approach. The EPA recognizes that reuse and recycling of water can play a critical role in helping states, tribes, and communities meet their future drinking water needs with a diversified portfolio of water sources. The practice can alleviate the effects of drought and assure groundwater resource sustainability and a secure water supply.

The EPA's priorities reflect water sector challenges that require innovative tools to assist municipalities 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 that represent critical considerations for selecting projects: Project Impact, Project Readiness, and Borrower Creditworthiness. Each criterion within a category can provide a range of points with the

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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. In order to reflect the EPA's priorities and give greater consideration to a class of projects that reduce exposure to lead and address emerging contaminants, including PFAS, in the nation's drinking water systems, the EPA has added a criterion (ix) to the Project Impact category of criteria in accordance with 40 C.F.R. § 35.10055(b). The criteria are as follows:

Project Impact:

(i) **15 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 C.F.R. § 35.10055(a)(1).

(iii) **5 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 C.F.R. § 35.10055(a)(4); 40 C.F.R. § 35.10055(a)(5).

(iv) **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 C.F.R. § 35.10055(a)(6).

(v) **10 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 C.F.R. § 35.10055(a)(7).

(vi) **10 points:** The extent to which the project addresses identified municipal, state, or regional priorities. 33 U.S.C. § 3907(b)(2)(I); 40 C.F.R. § 35.10055(a)(8).

(vii) **25 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 C.F.R. § 35.10055(a)(12).

(viii) **10 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 C.F.R. § 35.10055(a)(13).

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

Project Readiness:

(i) **50 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 C.F.R. § 35.10055(a)(9).

- (ii) **30 points:** Preliminary engineering feasibility analysis score. 33 U.S.C. § 3907(a)(2); 33 U.S.C. § 3907(a)(6); 40 C.F.R. § 35.10015(c); 40 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 35.10015(c); 40 C.F.R. § 35.10045(a)(1); 40 C.F.R. § 35.10045(a)(4); 40 C.F.R. § 35.10045(b).

In addition to the selection criteria score, the 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, the EPA will establish a ceiling for each project type and geographical location. The 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 C.F.R. Part 35.

Dated: _____

Andrew R. Wheeler,

Administrator.