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ENVIRONMENTAL PROTECTION AGENCY

[FRL 12914-01-OW]

Notice of Funding Availability for Credit Assistance under the State Infrastructure

Financing Authority Water Infrastructure Finance and Innovation Act (SWIFIA) 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's SWIFIA program is managed by the WIFIA division and operates under the authority of the WIFIA statute. EPA estimates that it may lend approximately \$550 million to help finance over \$1 billion in water infrastructure investment to state infrastructure financing authority borrowers.

DATES: LOIs submitted on or after **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** 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

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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 SWIFIA program handbook and application materials, on the WIFIA website: <https://www.epa.gov/wifia/wifia-state-revolving-fund-borrowers>.

FOR FURTHER INFORMATION CONTACT:

Dallas Shattuck, Office of Water, Environmental Protection Agency; telephone number: (202) 564-0972; or email: shattuck.dallas@epa.gov (preferred).

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
- II. Program Funding
- III. Eligibility Requirements
- IV. Budgetary Scoring Determination for Non-Federal Projects
- V. Types and Amount of Credit Assistance
- VI. Letters of Interest and Applications
- VII. Cost
- VIII. Selection Criteria
- IX. Federal Requirements
- X. Opportunities to Learn More About the SWIFIA Program

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.

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3901-3915, 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, commonly referred to as the SWIFIA program.

The SWIFIA 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. For this SWIFIA NOFA, EPA is implementing five key priorities that align with the WIFIA statute and EPA's "Powering the Great American Comeback" Initiative:

A. Providing Safe Drinking Water and Improving Water Quality

To further EPA's mission, projects should protect human health and/or the environment. Project types are wide-ranging and include, but are not limited to, projects that: improve water quality, support compliance with drinking water standards and wastewater permit requirements, reduce stormwater runoff, modernize aging water infrastructure, address PFAS and other emerging contaminants, and remove lead service lines. This priority aligns with the WIFIA statute at 33 U.S.C. 3907(b)(2)(F)(ii) (Selection Criterion (v) – "Helps maintain or protect the environment"), and EPA's "Powering the Great American Comeback" Initiative – Pillar 1: Clean Air, Land, and Water for Every American.

B. Pursuing Energy Independence, Exploration, Development, or Production

EPA encourages the submission of projects that serve populations in regions impacted by significant energy exploration, development, or production. These projects can help communities

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pursue energy independence and lower energy costs for communities. This priority aligns with the WIFIA statute at 33 U.S.C. 3907(b)(2)(G) (Selection Criterion (vi) – “Energy exploration, development, or production areas”) and EPA’s “Powering the Great American Comeback” Initiative – Pillar 2: Restore American Energy Dominance.

C. Advancing Local, Regional, and State Water Priorities

Localities, regions, and states understand their specific water challenges and priorities. EPA will partner with localities, regions, and states across the country to advance durable water infrastructure projects that address the critical needs of all communities, especially for small and rural communities. This priority aligns with the WIFIA statute at 33 U.S.C. 3907(b)(2)(I) (Selection Criterion (viii) – “Identified municipal, state, or regional priorities”) and EPA’s “Powering the Great American Comeback” Initiative – Pillar 3: Permitting Reform, Cooperative Federalism, and Cross-Agency Partnership.

D. Supporting Water Sector Innovation

EPA is prioritizing projects that incorporate new or innovative technology, which can play a significant role in helping states, tribes, and communities ensure the provision of clean, safe, and reliable water supplies. In particular, water reuse technology solves a variety of water challenges, such as expanding water resources to support economic development (e.g., artificial intelligence data centers) and alleviating the effects of drought. Other examples of new or innovative technology include, but are not limited to, desalination and cybersecurity enhancements. This priority aligns with the WIFIA statute at 33 U.S.C. 3907(b)(2)(D) (Selection Criterion (iii) – “New or innovative approaches”) and EPA’s “Powering the Great American Comeback” Initiative – Pillar 4: Make the United States the Artificial Intelligence Capital of the World.

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E. Promoting Economic Growth for American Industries

Reliable water infrastructure not only benefits residents, but also companies that depend on water resources to maintain and expand operations. Without durable water supplies, American industries, including the automotive, electronic, mining, and artificial intelligence sectors, cannot thrive. EPA encourages prospective borrowers to demonstrate how projects will support international commerce, increase domestic manufacturing, or accelerate economic growth. This priority aligns with EPA’s “Powering the Great American Comeback” Initiative – Pillar 5: Protecting and Bringing Back American Auto Jobs.

II. Program Funding

A. SWIFIA Program Appropriation

Congress appropriated \$5 million in funding to cover the subsidy cost of providing SWIFIA credit assistance. EPA estimates this appropriation will allow the Agency to provide approximately \$550 million¹ in long-term, low-cost financing to water infrastructure projects and accelerate over \$1 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/wifia-state-revolving-fund-borrowers>. 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.

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.

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LOIs received on or after **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, will be evaluated using the scoring criteria outlined in this NOFA. 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

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 SWIFIA program handbook found at <https://www.epa.gov/wifia/wifia-state-revolving-fund-borrowers>.

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

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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 SWIFIA 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 SWIFIA financing 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). EPA encourages project applicants to review the scoring criteria and provide sufficient information in the LOI or

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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

Under the SWIFIA program, 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 division 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

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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 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 III of this document or if additional information is needed to assess the LOI package.

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 SWIFIA 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

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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 SWIFIA credit assistance. Detailed information needs for the application are listed in the application form and described in the SWIFIA program handbook: <https://www.epa.gov/wifia/wifia-state-revolving-fund-borrowers>.

VII. Cost

There is no cost to submit an LOI. For information about application, closing, and post-closing costs, please refer to the SWIFIA program handbook: <https://www.epa.gov/wifia/wifia-state-revolving-fund-borrowers>.

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 below 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. For SWIFIA LOIs, EPA conducts a qualitative assessment and compares the statutory selection criteria to the state infrastructure financing authority's project prioritization process, as outlined in the state's Intended Use Plan and other relevant documents. The selection criteria listed in the WIFIA statute 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).

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- (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).
- (iii) The extent to which the project uses new or innovative approaches. 33 U.S.C. 3907(b)(2)(D).
- (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).
- (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).
- (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).
- (viii) The extent to which the project addresses identified municipal, state, or regional priorities. 33 U.S.C. 3907(b)(2)(I).
- (ix) The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the

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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).

- (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).

IX. Federal Requirements

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

X. Opportunities to Learn More About the SWIFIA Program

EPA hosts regular outreach events and monthly office hours to provide further information about submitting an LOI. The outreach schedule and registration instructions can be found on the WIFIA website: <https://www.epa.gov/wifia/connect-wifia-program>.

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

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

Jessica L. Kramer,

Assistant Administrator.