



July 9, 2020

The Honorable Nita Lowey
Chairwoman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

The Honorable Kay Granger
Ranking Member
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

The Honorable Richard Shelby
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Chairwoman Lowey, Chairman Shelby, Ranking Member Granger, and Ranking Member Leahy:

On behalf of the nation's drinking water clean water, and water recycling systems, we write today to express our deep concern with the House Appropriations Committee's approach to funding the Water Infrastructure Finance and Innovation Act (WIFIA) program in the fiscal year 2021 Interior, Environment, and Related Agencies appropriations legislation. As proposed, the House legislation would unacceptably negate years of work by dozens of water systems that have been working with EPA in good faith to obtain low-cost financing through the WIFIA program.

Congress established WIFIA in 2014 and made its first appropriation in support of the program in FY17. Since then WIFIA has enjoyed bipartisan support and consistent funding. As a result, to date 24 WIFIA loans have closed, delivering \$5.3 billion in total project financing. An additional 51 projects have submitted applications or have been invited to do so.

As proposed, the House's FY21 Interior, Environment, and Related Agencies spending bill includes no new direct appropriations for WIFIA. Instead, the bill would rescind all outstanding unobligated WIFIA appropriations from the 2017, 2018, and 2019 fiscal years and use this funding – estimated by the committee to be roughly \$71 million – to support new loans in FY21. We understand the intent of this approach is to ensure all loans that close in the future are consistent with new “budgetary scoring criteria” published by EPA and OMB on June 30, which seeks to prevent federally owned projects from obtaining WIFIA financing.

While we have no objection to excluding federal projects from WIFIA eligibility going forward, the committee's approach would rescind all pre-FY20 funds associated with loans that are unobligated. But in practice if a community is in the process of applying for a loan, the funds that would go to that loan are technically unobligated until closing occurs. This is particularly troubling because, due to the COVID-19 crisis, EPA has been allowing applicants additional time to complete their full applications and negotiate loan terms, since water systems have had to direct more resources towards managing the crisis. Nevertheless, if a community does not close on its WIFIA loan before the FY21 spending legislation goes into effect, the funds would disappear and the community would have to begin the application process all over again.

This means that as many as 51 different projects – 15 that have applied for FY18 funding, 15 that have applied for FY19 funding, and 21 that have been invited to apply for FY19 funding but have not yet submitted

an application – would have to start over and submit a new letter of interest to seek a WIFIA loan in FY21. However, because no additional FY21 WIFIA funding would be appropriated, these projects would compete for a share of these limited funds against other projects that will seek WIFIA loans for the first time in FY21. Ultimately, the committee’s proposal will fund fewer water infrastructure projects, while pulling the rug out from dozens of communities that believed in good faith that they were on their way to securing a WIFIA loan. Many would likely give up, having lost faith in the federal government’s ability to administer loans, and thus would have to seek infrastructure loans under terms more expensive to their ratepayers.

This would be an unfortunate outcome because communities that sought WIFIA loans in the 2018 and 2019 fiscal years were doing so in the early years of the program, as EPA was perfecting the application process and overcoming operational hurdles typical of ambitious new programs. These communities put their faith in the opportunity to be test cases, and the fact that many have yet to receive their funding speaks to the amount of work they have put into this effort.

While we appreciate the committee’s frustration with EPA and OMB over the slow publication of the new budget scoring criteria that Congress asked for last year, pursuing the current course of action will only serve to punish local communities that had no responsibility in developing the criteria. If Congress were to rescind these communities’ funding now, over an unrelated dispute over the eligibility of federal projects, it would not only return these communities to square one, but it would also do tremendous damage to the WIFIA program itself. It is likely that many communities would think twice about pursuing a WIFIA loan if they knew that Congress might rescind their opportunity at any point before the closing of their loan.

In addition, the committee’s legislation would reduce EPA’s funding for administration of WIFIA to just \$1 million – an inadequate sum that would effectively make it impossible to administer the program.

Over the past several years WIFIA has been a rare point of bipartisan agreement in Washington, but the House Appropriations Committee’s proposal to deliver the program’s FY21 appropriation through rescinded prior-year balances threatens to irreparably harm the program while throwing dozens of water infrastructure projects across the country into question. Congress must do better and agree on an FY21 funding plan that provides adequate funding without jeopardizing these prior-year projects. We stand ready to work with you on this effort.

Sincerely,

American Water Works Association
Association of Metropolitan Water Agencies
National Association of Clean Water Agencies
National Association of Water Companies
US Water Alliance
Water Environment Federation
WateReuse Association

cc: House Appropriations Committee, Senate Appropriations Committee, House Energy and Commerce Committee, House Transportation and Infrastructure Committee, Senate Environment and Public Works Committee