

ICR Supporting Statement
Information Collection Request for EPA Application Materials for the Water
Infrastructure Finance and Innovation Act
OMB Control No. 2040-NEW, EPA ICR No. 2549.01

A. Justification.

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

The collection of information is necessary in order to receive applications for credit assistance pursuant to section 5024 of the Water Infrastructure Finance and Innovation Act (WIFIA) of 2014, 33 USC 3903. The purpose of the WIFIA program is to provide Federal credit assistance in the form of direct loans and loan guarantees to eligible water infrastructure projects.

WIFIA requires that an *eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information, as the Secretary or the Administrator may require* to receive assistance under WIFIA. In order to satisfy these requirements, EPA must collect a letter of interest and an application from entities seeking funding. The relevant section of WIFIA is attached hereto as Exhibit A. EPA is publishing this notice to give entities an opportunity to submit applications upon authorization of funding. This collection is necessary to determine whether each proposed project meets creditworthiness and other Federal requirements to receive WIFIA credit assistance.

Following the second public comment period, EPA modified the letter of interest and application in order to be consistent with the language and requirements in the interim final WIFIA implementation rule (*Credit Assistance for Water Infrastructure Projects; 40 CFR Part 35*). In addition, EPA added examples of the types of documents that prospective borrowers can provide in their responses, if available, for a number of questions. EPA does not believe that these changes will add burden beyond what we already estimated in questions 12 and 13. Because the WIFIA program is new, EPA does not have any directly relevant prior experience with this type of collection and used its best professional judgment in developing the estimates.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The letter of interest and the application (attached as Exhibits B and C) collected from entities seeking WIFIA credit assistance through this solicitation will be used to evaluate and select projects based on the WIFIA eligibility requirements, selection criteria, and other Federal requirements.

- 3. Describe whether, and to what extent, the collection of information involves the use**

of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The letter of interest form is available electronically. The letter of interest and supporting narrative are submitted via e-mail or, if needed, via USB flash drive or CD. The application is available electronically. It is submitted in part electronically and in part via conventional mail, due to the size of the application package. To reduce burden and to minimize the number of copies required from the applicant, electronic versions of the application are required via USB flash drive or CD.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in item 2 above.**

The letters of interest and applications will generally be project specific and the information is not available elsewhere.

- 5. If the collection of information impacts small businesses or other small entities (item 5 of the OMB form 83-1), describe the methods used to minimize burden.**

Eligible applicants under WIFIA include corporations, partnerships, joint ventures, trusts, Federal, State, or local governmental entities, agencies, or instrumentalities, tribal governments or consortium of tribal governments, and state infrastructure financing authorities, which could include small entities. Letters of interest and applications are voluntary. EPA cannot minimize the burden to small entities, because WIFIA requires all eligible entities to submit an application in order to receive credit assistance. The relevant section of WIFIA is attached hereto as Exhibit A.

- 6. Describe the consequence to federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

If the collection is not conducted, EPA will be unable to satisfy the statutory mandate to require the submission of applications. Therefore, WIFIA credit assistance will not be available. In order to provide credit assistance to eligible projects, which is the purpose of the program, EPA must collect letters of interest and applications that respond to the eligibility requirements and selection criteria.

- 7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with 5 CFR 1320.6:**

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

8. Efforts to consult with persons outside the agency to obtain their views

On May 23, 2016, Vol. 81, No. 99, pages 32327 to 32328, the Agency published the notice of information collection and request for comments in the Federal Register. The solicitation is attached as Exhibit D. Seven (7) comments were received from the following professional associations, municipal water and wastewater utilities, and a non-governmental organization.

In addition, EPA consulted with nine (9) potential applicants outside the Agency to obtain their views on the availability of data, frequency of recordkeeping, disclosure, or reporting format, and on the data elements to be recorded, disclosed, or reported.

EPA appreciates the feedback that it received during both the public comment and consultation process. As a result, a number of changes were made to the supporting statement, draft letter of interest, and draft application.

For the application materials, EPA appreciates the numerous suggestions it received for making the instructions and questions more clear and incorporated these changes into the updated letter of interest and application included as Exhibits B and C. In particular, EPA edited the application language so that it is more inclusive of the wide variety of projects types and delivery methods that are eligible under the WIFIA program. It clarified types of documentation that will be accepted for projects with alternative delivery methods, such as design-build, construction manager at-risk, design-bid-build. EPA identified where draft and preliminary documents would be acceptable. EPA added definitions, for terms like treatment plant, community water system, and clarified the definitions of applicant, interested party and obligor. It also made sure that the definitions were consistent between the letter of interest and application.

In the instructions for the application materials, EPA provided additional detail about the submission requirements to provide more clarity on the requirements for paper size, font, font size, and margins. Also, EPA added information about how it will confirm receipt of both the letter of interest and application. In addition, EPA included additional information about where interested parties and applicants with questions can find information and how to contact EPA. In particular, EPA received feedback that some questions would be challenging for interested parties and applicants seeking credit assistance for non-traditional projects (e.g. green infrastructure, source water protection). Additional language in the application instructions addresses these types of situations specifically.

EPA acknowledges that the WIFIA program is required by statute to notify the appropriate State infrastructure financing authority regarding about applications for projects in its state. To help facilitate this process, EPA added to the letter of interest, information about the notification process for state infrastructure financing authorities. In addition, EPA added a signature block for the interested party to acknowledge that the state infrastructure financing authority in the project's state will be notified and that its

letter of interest and supporting documented will be shared, unless interested party opts out.

EPA acknowledges respondents concerns about the selection process and the possibility that applicants would have to pay fees with no guarantee of funding. As a result, EPA clarified the language describing the selection process. Specifically, it will be using the information provided in the letter of interest to select a subset of eligible projects for credit assistance. Also, EPA added that it will only invite projects that it expects to proceed to closing to submit a full application and that unsolicited applications will not be considered. EPA will only charge fees to applicants invited to apply and expected to proceed to closing.

EPA appreciates the significant feedback provided about the application and credit processing fee described in the supporting statement's burden estimate and in the application instructions. EPA made the following changes in response to this feedback. The supporting statement now includes a range of possible fees to better reflect that fees will vary based on the complexity of the project. The materials clarify that the application fee is credited to the credit processing fee. For example, if the cost of expert firms is \$400,000 and the applicant paid a \$100,000 application fee, a \$300,000 credit processing fee will be due at closing. In addition, EPA added a placeholder for the amount for the application fee and a description of the credit processing fee to both the letter of interest and application instructions.

EPA acknowledges that some commenters were concerned that the fees levels are too high. Others expressed that the fee levels were reasonable and encouraged EPA to make the best possible estimate of fees upfront to assist decision makers. As a result, EPA reevaluated its initial burden estimate and increased it to better reflect expected credit processing fees, which reimburses EPA for the cost of hiring expert technical services. Commenters also noted that the statutory requirement for rating letters is burdensome for applicants and may not be needed for other types of financing. This cost was not included in the initial supporting statement. Therefore, EPA added these cost to the applicant burden. It estimates that the cost of meeting the statutory requirement of providing one preliminary rating letter and two final rating letters to be \$200,000.

EPA did receive a number of comments that were beyond the scope of this ICR and did not result in changes to this supporting statement and the application materials. The comments were focused on:

- Program implementation;
- Reducing burden during loan monitoring and repayment;
- The selection process;
- Alternatives for financing for the application and credit processing fee; and
- Exact timelines for the letter of interest and application process.

EPA appreciates these comments and will take this feedback into consideration as it

continues to develop the WIFIA program. In addition, EPA will provide the public additional opportunity to provide comment as part of upcoming rulemakings on WIFIA program implementation and WIFIA program fees. EPA is developing a WIFIA program guide to further explain the how the program will be implemented. The program guide will be available to the public when availability of funding for credit assistance is announced.

In addition, some comments focused on removing requirements that are statutorily required, including providing one preliminary and two final rating letters, operations and maintenance plans, and adherence to Federal cross-cutters, such as NEPA, Davis-Bacon, and American Iron and Steel. EPA cannot change these requirements and, therefore, no changes were made to the materials in response to this feedback.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payments or gifts are provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

EPA cannot offer an assurance of confidentiality to any applicant. The applicant is directed to state if any information submitted in its letter of interest, application, or any supplementary material may not be released by the Agency upon request from a member of the public or otherwise made publicly available. The applicant must identify the confidential business information and provide reasons why such information is confidential business information and should not be released, including particulars as to any competitive harm which would potentially result from the release of such information. The Agency will handle requests from the public for release of information under its standard Freedom of Information Act procedures.

11. Provide additional justification for any questions of a sensitive nature.

Questions of a sensitive nature are not found in this information collection.

12. Provide estimates of the hour burden of the collection of information.

The Agency does not have any directly relevant prior experience on which to base these estimates of the hour burden of the collection and the annualized cost to respondents. Nevertheless, based on the number and type of interested stakeholders that have contacted the Agency about this program, the funding levels for the WIFIA program, and the EPA's application procedures, the EPA estimates that the burden will be as follows, exclusive of the hours required for project development:

Letter of Interest:

Letter of Interest Burden per Application				
Function	Legal	Manager	Technical	Clerical
Read application guidelines		1	1	1
Gather Information			10	5
Complete application form				1
Complete narrative			19	
Review Application	5	5		
Compile Application				2
TOTAL	5	6	30	9

- Total number of unduplicated respondents: 20
- Frequency of response: one per respondent
- Annual hour burden per application: 50
- Total annual burden hours: 1,000

Application:

Application Burden per Application				
	Legal	Manager	Technical	Clerical
Read application guidelines		1	1	1
Gather Information			26	15
Complete application form				1
Complete narrative			30	
Review Application	10	10		
Compile Application				5
TOTAL	10	11	57	22

- Total number of unduplicated respondents: 5
- Frequency of response: one per respondent
- Annual hour burden per application: 100
- Total annual burden hours: 500

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

EPA estimates that there will be twenty (20) unduplicated respondents for the letter of interest and five (5) unduplicated respondents for the application. The total annual cost burden to these twenty-five respondents will be \$3,064,593.90. This estimate includes the

following:

1. For the letter of interest, EPA estimates 1,000 annual burden hours and the annualized cost of those hours is \$40,107. EPA estimates 100 legal hours, 120 management hours, 600 technical hours, and 180 clerical hours. EPA used the following median hourly wages from the May 2015 National Occupational Employment and Wage Estimates United States (http://www.bls.gov/oes/current/oes_nat.htm) from the U.S. Bureau of Labor Statistics to calculate the cost of the estimated burden hours: Lawyers= \$55.69; Management= \$47.38; Engineers= \$43.30; and Office and Administrative Support= \$15.96
2. For the application, EPA estimates 500 annual burden hours and the annualized cost of those hours is \$19,487. EPA estimates 50 legal hours, 55 management hours, 285 technical hours, and 110 clerical hours. As noted above, EPA used the median wages from U.S. Bureau of Labor Statistics to calculate the cost of the estimated burden hours.
3. EPA estimated that respondents will be charged two fees:
 - a. An application fee will be due upon submission of the application. The application fee acts as the "earnest money" to ensure applicants are committed to closing the WIFIA credit assistance. This application fee is credited toward the cost of expert services. For applications for projects serving small communities (population of not more than 25,000 people), this application fee is estimated to be \$25,000. For all other applicants, this application fee is estimated to be \$100,000. EPA assumes that one applicant will be a small community. The annual application fee is estimated to be \$425,000.
 - b. A credit processing fee will be due at the time of closing for projects selected to receive assistance. The proceeds of any such fees would be used to pay for all or a portion of the Agency's cost of providing credit assistance and the costs of retaining expert firms, including legal, engineering, and financial advisory services. The fee for each project is directly attributable to the costs incurred by EPA for that project. EPA intends to fund all entities who are invited to apply for WIFIA credit assistance. If the credit agreement is not executed, the applicant must reimburse EPA for costs incurred in negotiating the credit agreement.

The amount for expert firms varies between applicants depending on the complexity of the project. EPA estimates these costs may range from \$350,000 to \$700,000. For the purpose of estimating burden, EPA estimates the cost will be approximately \$400,000. A portion of the credit processing fee may be waived at the discretion of the EPA. EPA will calculate a specific credit processing fee for each project. This credit processing fee will be equal to the cost of expert firms minus the application fee. For example, if the cost of expert firms is \$400,000 and the applicant paid a \$100,000 application fee, a \$300,000 credit processing fee will be due at closing. The total credit processing fee for five applicants will be approximately \$1,575,000.

4. The cost of general expenses for submitting an application, such as supplies, delivery charges, mailing, copying, and telecommunications, will be \$1,000. The total general expenses will be \$5,000.
5. By statute, applicants are required to submit a preliminary rating letter at the time of application and two (2) final rating letters at the time of closing that indicate that the senior obligation of the project has an investment grade rating. These rating letters must be from a rating a bond rating agency identified by the Securities and Exchange Commission as a Nationally Recognized Statistical Rating Organization. The cost of these rating letters vary based on the size and complexity of the project. Based on bond rating agency estimates and industry research, EPA estimates that the final rating letters will cost approximately \$100,000 per letter and that the initial preliminary rating letter is included in the cost of one of the final letters. The total cost for five applicants will be \$1,000,000.

14. Provide estimates of annualized cost to the federal government.

The estimated cost to the Federal government of this request for letters of interest and applications is \$765,782. This cost reflects three components:

1. EPA will establish an evaluation process to review each of letter of interest and application and to determine which projects will receive WIFIA funding. This process includes technical, financial, and management review of the letters of interest. Then, there will be additional technical, financial, and management review of the applications. This estimate does not include all aspects for administering the WIFIA program. EPA estimates that this process will require the equivalent of five FTE per year.

The estimated average annual cost for EPA personnel is \$95,704 based on the General Schedule (GS) 13, Step 05 level from the 2016 GS salary table. The annual cost was then multiplied by the standard government benefits multiplication factor of 1.6 to calculate an estimated annual pay including benefits per FTE of \$153,126. Therefore, the estimated annualized cost for the evaluation team is \$765,632.

2. EPA will hire expert firms, including legal, engineering, and financial advisory services, for credit processing. These costs are estimated to be \$400,000 per application and are expected to be reimbursed in full by the applicants using the application fees and credit processing fees. The net estimated annualized cost to the Federal Government for credit processing is \$0.
3. EPA will print application materials. EPA does not expect to need any special equipment or support, other than printing. As noted above in item 12, EPA expects 20 letters of interest and 5 applications. If each letter of interest is 25 pages and each application is 50 pages, as requested in the solicitation, EPA may need to print as many as 750 pages for staff involved in the evaluation process. EPA estimates up to 10 staff may need materials

which adds up to a total of 7500 pages of printing. EPA's printing costs are approximately 2 cents per page, which adds up to a total printing cost of \$150.

15. Explain the reason for any program changes or adjustments reported in items 13 or 14 of the OMB form 83-1.

This is a new information collection at EPA.

16. For collections of information whose results will be published, outline plans for tabulation, and publication.

The letters of interest and applications collected for the WIFIA program will not be published. EPA will maintain a publicly available list of projects that have submitted letters of interest and applications to the WIFIA program.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Agency plans to display the expiration date for OMB approval of the information collection on all instruments.

18. Explain each exception to the certification statement identified in item 19, "certification for paperwork reduction act submissions," of OMB form 83-1.

The Agency is able to certify compliance with all provisions under Item 19 of OMB Form 83-1."