

ICR Supporting Statement
Information Collection Request for Implementation of Water Infrastructure Finance and
Innovation Act Program
OMB Control No. 2040-0292, EPA ICR No. 2549.03

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 to receive applications for credit assistance pursuant to the Water Infrastructure Finance and Innovation Act (WIFIA) of 2014, 33 U.S.C. Chapter 52. This includes both base WIFIA program loans and State Infrastructure Finance Authority WIFIA (SWIFIA) loans as explained in Section 3912(e). The purpose of the WIFIA program is to provide federal credit assistance in the form of direct loans and loan guarantees to eligible clean water and drinking water projects.

WIFIA Section 3903(a) requires that “an eligible entity shall submit to [the Administrator] an application at such time, in such manner, and containing such information, as the [the Administrator] may require” to receive assistance under WIFIA. To satisfy these requirements, the WIFIA regulation at 40 CFR 35.10015 establishes a two-step application process with a Letter of Interest (LOI) and an application. The regulation established that in the LOI, EPA may collect prospective borrower information, project plans, preliminary project operations and maintenance plans, proposed financing plans and audited financial statements, contact information, written responses to selection criteria, certifications, a notification of the applicable state infrastructure financing authority, and other information to select projects. The eligible entity for the selected project must then submit an application if they wish to obtain a WIFIA loan.

The regulation established that the application shall provide additional information including, at a minimum, detailed applicant information, detailed project information, a detailed project operation and maintenance plan, a comprehensive financing plan, and complete certifications. The relevant section of the WIFIA statute is attached hereto as Exhibit A. With each appropriation, EPA publishes a Notice of Funding Availability (NOFA) in the Federal Register to give entities an opportunity to submit application materials to request WIFIA and/or SWIFIA loans funded with that appropriation. This collection is necessary to determine whether each proposed project meets creditworthiness and other federal requirements to receive WIFIA credit assistance.

- 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 LOI and the application for the base WIFIA program and SWIFIA program collected from prospective borrowers will be used to evaluate applications for credit assistance under the WIFIA eligibility requirements and selection criteria as outlined in the annual Notice of Funding Availability (NOFA).

Additionally, due to the frequency of requests for waivers under the American Iron and Steel Act (AIS) and the likelihood of waiver requests under the Build America Buy America Act (BABAA), EPA has developed a waiver request form to streamline the process and ensure that the WIFIA program has the necessary information to make any waiver determination.

Exhibit B is the WIFIA LOI form (6100-033). In it, EPA requests the information it needs to:

- Validate the eligibility of the prospective borrower and the proposed project
- Perform a preliminary creditworthiness assessment;
- Perform a preliminary engineering feasibility analysis; and
- Evaluate the project against the selection criteria found at 40 CFR 35.10055 and outlined in the NOFA.

To determine eligibility, EPA requests key loan information, such as a general description of the borrower, project, purpose, loan amount, total eligible project costs, application submission date, loan close date, and population information. For EPA to evaluate creditworthiness, the prospective borrower will provide the preferred lien priority for the WIFIA loan and a current rating letter. If the prospective borrower does not have a current rating letter, they may provide a pro-forma or financial statements and a budget. To complete the preliminary feasibility analysis, EPA asks the prospective borrower to provide technical reports or written information relevant to evaluating the project and a high-level schedule of dates for each of the project or projects included as part of the LOI. In the selection criteria section, EPA asks prospective borrowers to describe the potential policy benefits achieved using WIFIA assistance with respect to each of the WIFIA program selection criteria. These responses are used to evaluate projects using the selection criteria. Additionally, EPA requests the borrowers' contact information for future communication.

EPA also requests that the prospective borrower certify that it will abide by all applicable laws and regulations, if selected to receive funding. Finally, EPA includes a State Revolving Loan Fund (SRF) notification section to ensure that the prospective borrower is aware that the EPA will notify the state infrastructure financing authority in the state in which the project is located that it submitted an LOI, as required by 40 CFR 35.10050, and provide the submitted LOI and source documents to that authority, unless the prospective borrower opts out of having its LOI and source documents shared.

Exhibits C and D are the WIFIA applications forms (6100-032, 6100-54). In preparation for more private borrowers, EPA has developed a separate application that is more

accurate for those borrower types. The purpose of both applications is identical and having a specialized application will reduce burden to private borrowers in trying to fit their data to questions not appropriate for them. For these reasons, EPA estimates that both applications will have the same burden. In it, EPA requests information needed to confirm the eligibility of the project and borrower, evaluate the creditworthiness of the prospective borrower and project for the proposed WIFIA credit assistance, and conduct the engineering due diligence, including federal compliance. This includes:

1. *Key Applicant and Loan Information:* EPA requests basic information such as its legal name, project name, estimated total projects costs, requested WIFIA loan amount, anticipated closing date, and contact information. It also collects information about jobs, savings, Unique Entity ID assigned by SAM.gov, and employer/taxpayer identification number.
2. *Applicant Background:* Materials submitted under this section detail the applicant's legal authority to apply for a WIFIA loan and to undertake the project and disclose any current, threatened, or pending litigation. EPA also requests information like customer concentration analysis, water and sewer rate information, capital improvement planning process information, any accounts receivable outstanding information, the latest condition assessment report or a master plan that informs the engineering due diligence.
 - o *Financing Plan:* To assess creditworthiness and calculate the subsidy amount, EPA requests a comprehensive plan describing how the project will be financed and how financing will be repaid over the tenor of the requested WIFIA credit assistance. This includes a detailed financial model covering all periods through final maturity of the WIFIA credit assistance, the sources and seniority of other financing, a description of the dedicated sources of repayment, rate covenants, and security for the requested WIFIA credit assistance. As required by statute, 33 U.S.C. 3907(a)(1)(D)(i), EPA also requests a preliminary rating letter from a Nationally Recognized Statistical Rating Organization (NRSRO). EPA also asks for the prospective borrower's proposed terms and conditions for the WIFIA credit assistance to inform a creditworthiness analysis.
3. *Federal Requirements Compliance:* EPA requests information about the status of the environmental review and the status of SRF environmental review, if applicable. The applicant also identifies any cross-cutting consultations that have been undertaken and any major permits or approvals required. This allows EPA to complete its National Environmental Policy Act (NEPA) determination and assess compliance with federal requirements and cost-cutters.
4. *Contract Information:* To inform engineering due diligence, EPA requests that the applicant fills out a separate Excel spreadsheet with specific contract information including contract components, project information within each contract, the project delivery method, and filenames of technical reports. The applicant also provides information about costs, schedules, operations and maintenance plans, and final or draft bid specifications for the project(s).
5. *Certifications:* The applicant certifies that it will abide by all applicable laws and

regulations, including NEPA and the Davis-Bacon wage rules.

Exhibit F is the SWIFIA LOI form (6100-031). It is used solely by State infrastructure financing authority borrowers applying for financing under the SWIFIA program. In it, EPA requests the information it needs to:

- Validate the eligibility of the prospective borrower and the proposed project
- To evaluate the project against the selection criteria.

To determine eligibility, EPA requests loan information, including, the prospective borrower's legal name, address, website, SAM.gov unique entity ID number, and employer/taxpayer identification number. It also requests its requested SWIFIA loan amount, the estimated total costs of the SWIFIA project, whether the projects are Clean Water SRF and/or Drinking Water SRF projects, and its requested loan structure. EPA also asks for supporting documents including the most recent version of its Intended Use Plan (IUP), SRF Operating Agreements, and the bond indenture (if applicable) to determine eligibility, including creditworthiness. EPA requests documentation of the priority setting system to evaluate the project against the selection criteria defined in the NOFA. EPA also requests the prospective borrower identifies the point of contact with whom the WIFIA program should communicate regarding the LOI. Finally, EPA asks the prospective borrower to certify that it will abide by all applicable laws and regulations, including NEPA, the Federal Water Pollution Control Act, the American Iron and Steel requirements as required by 33 USC 3914, and federal labor standards as required by 33 USC 3909(h), among others, if selected to receive financing.

Exhibit G is the application form for all State infrastructure financing authority borrowers applying to either the WIFIA base program or SWIFIA program (6100-030). In it, EPA requests information needed to confirm the eligibility of the project and borrower, evaluate the creditworthiness of the prospective borrower and project for the proposed WIFIA credit assistance, and conduct the engineering due diligence, including federal compliance. The following list outlines the elements of an application.

1. *Loan and Applicant Information:* EPA requests basic information such as its legal name, project name, requested loan amount, estimated total costs of the SRF loans that are included in the Project, anticipated closing date, and contact information. In addition, the applicant provides its SAM.gov Unique Entity ID number, and employer/taxpayer identification number. EPA also requests information about the quantitative and qualitative benefits of the project, such as environmental, public health and economic benefits and cost savings. EPA asks the applicant to explain its legal structure, legal authority to apply for a loan, approval process and to disclose any current, threatened, or pending litigation.
2. *Financing Plan:* EPA requests that the applicant indicate its requested loan structure. Three options are available. For SWIFIA borrowers, option 1 equates to the WIFIA program adopting the SRF program's existing indenture and option 2 equates to the

SRF program accepting the WIFIA program's standard terms. State infrastructure finance authorities that are selected under the WIFIA base program may opt to negotiate their terms. Based on the requested loan structure, EPA asks the appropriate questions to evaluate creditworthiness.

3. *Supporting Document*: EPA requests documents referenced in the application to support its creditworthiness review, engineering due diligence, and NEPA determination.
4. *Certifications*: EPA asks the applicant to certify that it will abide by all applicable laws and regulations, including NEPA and the Davis-Bacon wage rules.

Exhibit H is EPA's waiver request form (6100-080) to streamline the process waiver submission and ensure that the WIFIA program has the necessary information to make any waiver determination. It includes information such as project descriptions, type of waiver and justification, product availability information, cost information, and public benefit information to determine eligibility for a waiver.

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 LOI form is available electronically. To reduce burden and reduce the number of copies required, the LOI and supporting documents are submitted via WIFIA's SharePoint site. The application is available electronically. It is also submitted electronically via WIFIA's SharePoint site.

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 LOI and applications will generally be project specific and the information is not available elsewhere. Applicants may reference documents that already exist and submit the documents as attachments or links as part of the LOI and application process.

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. LOIs 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. 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 1320.5(d)(2):

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

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

On Friday, August 26, 2022, Vol. 87 No. 165, pages 52551 to 52552, the Agency published the notice of information collection and request for comments in the Federal Register. No comments were received.

EPA also consulted with persons 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. These consultations occurred over the period of October 17-October 25, 2022. The consultations took the form of video calls with existing borrowers, who had experience with the relevant forms. In total, 6 entities were interviewed, with multiple participants from each entity on the call.

In general, the consultations were favorable, with many concerns regarding previous forms having been addressed in the proposed form. There were some specific notes on form language and clarity that are addressed in the final versions of the form. The burden estimates by users were consistent with our estimates and generally users understood the need for the data collected. Borrowers appreciated the statutory change to only one required credit rating for loan closing and the policy decision that additional financial data is only required at the letter of interest stage if the borrower does not have an external credit rating.

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 LOI, 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.

Based on respondent numbers, burden data from the WIFIA’s previous rounds of collecting LOIs and applications, and consultations with borrowers, EPA is estimating the burden below. Typically, around 10 LOIs that are invited to apply do not end up submitting an application for various reasons.

	Hours Per Respon se	Annual Submissions	Total Annual Hours
Letter of Interest - Base Program	60	45	2700
Letter of Interest - SWIFIA Program	5	5	25
Application - Base Program	200	35	7000
Application - SWIFIA Program	100	5	500
Waivers - Base Program	15	15	225
TOTAL HOURS			10450

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

Respondent Labor Costs

To calculate labor rates, EPA used the mean hourly wages from the May 2021 National Occupational Employment and Wage Estimates ([bls.gov](https://www.bls.gov)) from the U.S. Bureau of Labor Statistics plus an additional 60 percent to account for overhead expenses.

- Lawyers= \$113.87
- Management= \$94.90
- Engineers= \$45.77
- Office and Administrative Support= \$33.41

Total average annual labor costs for this ICR = \$772,065

The tables below show the breakdown of labor costs for the LOIs, Applications, and Waivers.

LOIs (Base Program)

For the Base Program LOI, EPA estimates 2,700 annual burden hours and the annualized cost of those hours is \$208,781. EPA estimates 405 legal hours (at \$113.87/hour equal \$4,6118); 495 management hours (at \$94.90/hour equal \$46,974); 1,395 technical hours (at \$45.77/hour equal \$102,159); and 405 clerical hours (at \$33.41/hour equal \$13,530).

Number of Collections per year	Hours per Collection	Total Hours per Collection	Total Cost per year
45	60	2,700	\$208,781

LOIs (SWIFIA Program)

For the SWIFIA LOI, EPA estimates 25 annual burden hours and the annualized cost of those hours is \$1,971. EPA estimates 6.25 legal hours (a \$113.87/hour equal \$712); 6.25 management hours (at \$94.90/hour equal \$593); 6.25 technical hours (at \$45.77/hour equal \$458); and 6.25 clerical hours (at \$33.41/hour equals \$209).

Number of Collections per year	Hours per Collection	Total Hours per Collection	Total Cost per year
5	5	25	\$1,971

Applications (Base Program)

For the Base Program application, EPA estimates 7,000 annual burden hours and the annualized cost of those hours is \$508,173. EPA estimates 175 legal hours (at \$113.87/hour equal \$19,928); 560 management hours (at \$94.90/hour equal \$53,142); 5,670 technical hours (at \$45.77/hour equal \$415,225); and 595 clerical hours (at \$33.41/hour equal \$19,878).

Number of Collections per year	Hours per Collection	Total Hours per Collection	Total Cost per year
35	200	7,000	\$508,173

Applications (SWIFIA Program)

For the SWIFIA application, EPA estimates 500 annual burden hours and the annualized cost of those hours is \$36,338. EPA estimates 27.5 legal hours (at \$113.87/hour equal \$3,131); 27.5 management hours (at \$94.90/hour equal \$2,610); 395 technical hours (at \$45.77/hour equal \$28,927); and 50 clerical hours (at \$33.41/hour equal \$1,670).

Number of Collections per year	Hours per Collection	Total Hours per Collection	Total Cost per year
5	100	500	\$36,338

AIS/BABAA Waivers

For the AIS/BABAA Waivers, EPA estimates 225 annual burden hours and the annualized cost of those hours is \$16,802. EPA estimates 0 legal hours (at \$113.87/hour equal \$0); 15 management hours (at \$94.90/hour equal \$1,423); 210 technical hours (at \$45.77/hour equal \$15,379); and 0 clerical hours (at \$33.41/hour equal \$0).

Number of Collections per year	Hours per Collection	Total Hours per Collection	Total Cost per year
15	15	225	\$16,802

Respondent Application Costs

Applicants will be charged two fees: an application fee and a credit processing fee. An application fee will be due upon submission of the application. A credit processing fee will be due upon loan closing, to reimburse costs incurred by the EPA due to legal, financial, and other expert contractor help. For projects serving small communities (population of not more than 25,000 people), the application fee will be \$25,000. For all other applicants, including all SWIFIA applicants, the application fee will be \$100,000. The application fee is a down payment on the credit processing. And although the up-front application costs differ for a small vs. a large borrower, EPA estimates the total costs of the application fee and the credit processing fee to be the same for all borrowers in the base program. Due to the nature of this credit processing fee, the amount is expected to vary between applicants. However, EPA estimates these costs for WIFIA

base program applicants based previous years as approximately \$200,000 per applicant. The total credit processing fees for SWIFIA would be \$200,000. The total for 40 borrowers is \$8,000,000.00, 35 base program borrowers (at \$200,000/borrower), and 5 SWIFIA borrowers (at \$200,000/borrower).

Applicants to both the base WIFIA program and the SWIFIA program are required to submit a preliminary rating letter at the time of application and one final rating letter at the time of closing that indicate that the senior obligation of the project has an investment grade rating. This requirement can be found at 33 U.S.C. § 3907(a)(1)(D)(ii), and reflects the 2021 amendment which reduced the ratings letters from two to one. The cost of the rating letter varies based on the size and complexity of the project. Based on bond rating agency estimates and industry research, EPA estimates that the final rating letter will cost approximately \$50,000 and that the initial preliminary rating letter is included in the cost of the final letter. The total cost for 40 applicants (35 base program and 5 SWIFIA) is \$2,000,000.

Cost Item	Cost	# Per Year	Annual Cost
Application& Credit Processing Fees – Base Program	\$200,000	35	\$7,000,000.00
Application& Credit Processing Fees – SWIFIA	\$200,000	5	\$1,000,000.00
Rating Letter	\$50,000	40	\$2,000,000.00
ANNUAL TOTAL			\$10,000,000.00

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

The estimated cost to the federal government of the request for letters of interest and applications is \$3,868,450.56.

EPA follows an evaluation process to review each LOI 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, additional technical, financial, and management review of the applications. EPA estimates that this process will take 65% of 26 FTEs’ time.

The estimated average annual cost for EPA personnel is \$143,064.00 based on the General Schedule (GS) 14, Step 05 level from the 2022 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 \$228,902.40. Therefore, the estimated annualized cost for the evaluation team is \$3,868,450.56.

EPA will hire legal, financial, and other expert contractor support for credit processing. These costs are estimated to be \$200,000 per application. They are expected to be

reimbursed in full by the applicants. The net estimated annualized cost to the Federal Government for credit processing is \$0.

15. Explain the reason for any program changes or adjustments reported in items 13 or 14.

There was an overall decrease of 375 hours in average annual burden hours. This is the net result of one increase and one decrease in hours.

1. The AIS/BABA Waiver Form, which was created to streamline the waiver application process added 225 hours.
2. A Reduction of 600 hours due to a decrease in expected number of WIFIA LOIs from 55 to 45, based on the average number of collections over the past 3 years.

The average annual non-labor cost burden to the public decreased by \$4,500,000. This was driven by two factors.

1. There was a statutory change that reduced the total number of required final ratings letters from 2 to 1, significantly cutting the costs associated with them.
2. Based on actual fees over the previous ICR period (2019-2022), the estimated fees for both the base program and SWIFIA have been decreased to \$200,000 per applicant.

For the cost to the federal government, EPA's annual cost increased, because of salary increases across federal government.

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. The current lists are available at <https://www.epa.gov/wifia/wifia-projects>

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."

The Agency can certify compliance with all provisions under Item 19.