



September 30, 2024

U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Re: Project-Specific Public Interest Previously Planned Project Waiver of Build America, Buy America Act (BABA) Requirements to the Milwaukee Metropolitan Sewerage District in Wisconsin (Applicant) for the Aeration System Upgrade Project at the South Shore Water Reclamation Facility

Dear BABA Waiver Decision Team:

The Council of Infrastructure Financing Authorities (CIFA), which represents the Clean Water and Drinking Water State Revolving Funds (SRFs), **supports** a waiver of Build America, Buy America Act (BABAA) domestic procurement requirements for the aeration system upgrade project at the South Shore Water Reclamation Facility in Milwaukee, Wisconsin, which is being funded by the Clean Water SRF.

The Milwaukee Metropolitan Sewerage District began planning this critical wastewater infrastructure project in November 2019 – two years before BABAA became law on November 15, 2021. Milwaukee’s project was eligible under the *original* adjustment period waiver for SRF projects, which was revoked last year, and appears to be eligible for the *current* adjustment period waiver for the Water Infrastructure Financing and Innovation Act (WIFIA),<sup>1</sup> both of which provide safe harbor for projects that initiated design planning before the effective date of the law on May 15, 2022.

**Approving this waiver would ensure equal application of the law.** As expressed by CIFA on multiple occasions, establishing different rules for programs that fund the same types of water infrastructure projects, such as the SRFs and WIFIA, would likely create inequity and unfairness among recipients of federal funding. Compliance with federal mandates, as well as relief from

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<sup>1</sup> Excerpt from the [WIFIA BABAA waiver](#): EPA hereby grants a program waiver of the requirements of Section 70914(a) of the IIJA (BABAA), pursuant to Section 70914(b)(1) (public interest waiver), for eligible projects to be financed by the Water Infrastructure Finance and Innovation Act (WIFIA) program that have initiated project design planning prior to May 14, 2022, the effective date of BABAA requirements as OMB’s guidance includes WIFIA as a program covered by BABAA.

requirements, should be applied consistently across programs and projects, regardless of the program providing the federal funding.

**Approving this waiver would keep this critical water infrastructure project on time and on budget.** Revoking the original waiver for SRF projects that initiated design planning before the effective date of the law could derail vital water infrastructure projects that protect public health and the environment. Abruptly changing the rules while projects are underway will inevitably result in construction delays and increased costs by as much as 40%. Delays in construction could jeopardize public health and the cost of compliance would be passed onto family households in higher water bills.

CIFA urges greater consistency in applying the BABAA across federal agencies, covered programs and similar water infrastructure projects. Transparent, reliable and fair application of the law are critical to keeping these public health projects on track while also ensuring successful implementation of this landmark legislation.

Sincerely,

Angela Knecht  
CIFA President

### **About CIFA**

CIFA is a national not-for-profit organization that represents the Clean Water and Drinking Water State Revolving Funds (SRFs), the nation's premier programs for funding water infrastructure that protects public health and the environment.

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