

Statement of
The Associated General Contractors of America
to the
Committee on Environment and Public Works
U.S. Senate

For a hearing on

**“The Federal Role in Keeping Water and Wastewater Infrastructure
Affordable”**

April 07, 2016

AGC of America
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

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AGC is the leading association in the construction industry. Founded in 1918 at the express request of President Woodrow Wilson, AGC now represents approximately 26,000 firms in nearly 100 chapters throughout the United States. Among the association's members are approximately 6,500 of the nation's leading general contractors, more than 12,500 specialty contractors, and more than 13,000 material suppliers and service providers to the construction industry. These firms engage in the construction of buildings, shopping centers, factories, industrial facilities, warehouses, highways, bridges, tunnels, airports, waterworks facilities, waste treatment facilities, dams, hospitals, water conservation projects, defense facilities, multi-family housing projects, municipal utilities and other improvements to real property.

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

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The Associated General Contractors of America (AGC) is pleased to write today to explain the many possible tools that could and should be active in the water and wastewater infrastructure financing toolbox.

AGC is the leading association representing more than 26,000 firms, involved with architectural, engineering and construction (AEC) services. Our membership includes over 6,500 leading general contractors, and over 9,000 specialty-contracting firms, as well as over 10,500 service providers and suppliers through a nationwide network of chapters. Our members are engaged in all forms of the design and build process including commercial, industrial, and community use buildings, infrastructure, and other improvements to real property. Many of these firms regularly undertake construction for the Environmental Protection Agency's (EPA) State Revolving Loan Fund Program (SRF) and the Department of Agriculture's Rural Utilities Service. Most are small and closely-held businesses.

Even before the economic downturn, many of our cities and towns, which include large urban and small rural communities, had experienced substantial challenges repairing and replacing water infrastructure that is quickly reaching the end of its useful life. Many communities do not currently have the financial resources to make the necessary investments to meet federal water quality standards and face significant practical and political challenges enacting rate structures to raise adequate capital and make the improvements that are needed. Water infrastructure needs continue to multiply as chronic underinvestment in federal water infrastructure financing programs is compounded by an evolving and expanding regulatory landscape. Clean water and drinking water agencies will continue to bear the brunt of this double-edged problem. EPA projects between \$400 to \$600 billion is needed in infrastructure improvements over the next 20 years simply to keep pace, yet consistent dwindling of federal commitment to the SRF programs has resulted in a gap in funding of more than \$20 billion annually. Independent analyses of the water and wastewater infrastructure needs put the numbers well over \$1 trillion. The federal government began a massive commitment to secondary water treatment systems in the Clean Water Act's Construction Grants program over 40 years ago. Much of the infrastructure that was put in place during that period has reached or passed its design life or capacity. This is creating a water infrastructure crisis at the local government level.

When the federal government began mandating quality standards for drinking water and wastewater discharge through legislation like the Clean Water Act and Safe Drinking Water Act, it also recognized that forcing local governments to spend billions of dollars to upgrade facilities and equipment to comply with regulatory burdens was impractical. The EPA's SRF program is the vehicle the government uses to avoid foisting the burden of maintaining national water standards onto local ratepayers alone. Given that it is in the federal interest to set water quality standards, then so too must it be in the federal interest to provide financing help to operators so they can meet those standards. This is even more salient now with the sharp drop-off in State

revenues and lack of budgetary flexibility most states have due to balance provisions in state constitutions. Federal investments in infrastructure also are often the best way to ensure the health, safety and economic vitality of sparsely populated rural communities. Many rural communities, indeed many rural states, lack the resources needed to finance the construction of major infrastructure projects like advanced wastewater treatment plants or safe drinking water filtration systems. The federal government is uniquely suited to supporting infrastructure investments in these rural communities, especially when so much of our nation depends on the commercial traffic that travels through them and the agricultural products that come from them.

Potential Tools in the Toolbox

There are several infrastructure financing options that have been suggested or have been in use at one time, but none that have remained consistent over the last several decades. There needs to be stability and predictability for state and local governments, which would allow them to create long-term construction plans, which in turn give stability and predictability in the water and wastewater construction markets. Giving municipalities and their contractor partners access to all the tools in the infrastructure financing toolbox will help achieve this.

The first and most immediate solution is simply to halt the assault on the annual appropriations to the federal water infrastructure financing pathways – such as EPA’s SRFs and USDA’s Rural Utilities Service. Congressional appropriations for water infrastructure projects have been diminishing steadily over the years while our needs are increasing. Despite of the investments made in the Recovery Act and significant increased levels of appropriations for fiscal year 2010, AGC of America believes that a more stable revenue stream is required to ensure that we are adequately investing in our water infrastructure. This would also help to ensure that the reforms enacted in the 2014 Water Resources Reform and Development Act (WRRDA) that make SRF loans more flexible to administer and go farther (with options like principal forgiveness and negative-interest loans) are being used to their fullest potential.

While increased appropriations would go a long way toward alleviating the short-term problem, they would not solve the long-term problem of market stability and predictability. With the volatility inherent in the annual appropriations process, a sustainable, long-term funding mechanism is needed to provide market certainty for construction firms and local water authorities. This new long-term funding mechanism should be multi-year and utilize the existing SRF framework to move funds from the federal to state and local levels. This long-term mechanism should also embrace the “user pays” concept that other infrastructure funding mechanisms have implemented with success to create a budget-neutral, user-fee financed, clean water trust fund. The best long-term solution would be to establish this national clean water trust fund, to be financed by a wide array of small broad-based user fees at the manufacturer level.

There is ample precedent for dedicated federal trust funds to tackle problems too big for states to handle alone. The GAO has identified more than 120 federal trust funds in operation. These trust funds help ensure funding for other critical projects, including Highways, Airports, Harbor Maintenance, even Oil Spill cleanup. A dedicated long-term, sustainable, off-budget source of funding for water infrastructure such as a trust fund would create market certainty in the water and wastewater markets.

Polling has shown that 86 percent of Americans support legislation by the U.S. Congress that would create a long-term, sustainable, and reliable federal trust fund for clean and safe drinking water infrastructure. The Government Accountability Office (GAO) in 2009 released a report entitled “Options for a Clean Water Trust Fund” which acknowledges that our nation faces tremendous challenges in replacing and rehabilitating our water infrastructure. As the GAO’s report states, a trust fund for water infrastructure may not be the only solution to our water infrastructure needs in America but it would establish a multi-year commitment to address the nation’s pressing water needs.

Additionally, while a trust fund would be the best solution, it is still only one tool in the toolbox of financing and funding mechanisms that Congress should make available for use by state and local governments. Alternative and creative methods of financing water infrastructure must be embraced in these tough times. As traditional methods of funding fall out of favor, it is important to seek fresh and creative approaches. However, it is crucial to note that these creative and alternative mechanisms should supplement, rather than replace, the traditional financing mechanisms, such as the SRF, which are already proven to work.

One such creative mechanism is the highly successful, but short lived, Build America Bonds (BAB) program in the Recovery Act. BABs are taxable bonds for which the U.S. Treasury Department pays a 35 percent direct subsidy to the issuer to offset borrowing costs. The program financed nearly \$38 billion in water and sewer infrastructure projects over the two years it was active. That’s more than ten times the combined amount appropriated to the SRFs for FY2010 (the best year for SRF appropriations not adjusted for inflation).

Another important financing mechanism is the new Water Infrastructure Financing and Innovation Authority, or WIFIA based on the one of the success stories of the Surface Transportation Program, the Transportation Infrastructure Finance and Innovation Act program (TIFIA). This national program is designed to give direct loans and loan guarantees to water infrastructure projects could help take some of the pressure off municipalities with large needs. One of the major benefits of this approach would be that money appropriated can be leveraged on the open market at rates ranging from 10:1 up to 30:1 to drastically increase the length that the federal dollar will go. While this program was created in the 2014 WRRDA, it has yet to see prime time appropriations and has not yet been put to use.

A final method of directing funds to water infrastructure would be to secure access to private investment in water infrastructure. Private activity bonds (PABs) can be an important tool for financing infrastructure investments in our communities by providing long-term financing for capital-intensive infrastructure projects. PABs are a form of tax-exempt financing available to entities like state or municipal governments that want to partner with a private party to meet a public need. Interest paid on bonds issued by State and local governments generally is excluded from gross income for Federal income tax purposes, which allows the interest rates on such bonds to be lower. This, in turn, lowers the borrowing costs for the beneficiaries of such financing.

Congress controls the total volume of tax-exempt bonds by limiting issuance in each state with an annual cap – for example, in 2016 the volume cap for a state is the greater of either \$100 per capita

or \$302.88 million. Water and wastewater projects should be removed from this annual volume cap, allowing those projects to no longer have to compete with the dozens of other categories of public spending these bonds finance. Exceptions from the volume cap are currently provided for other governmentally owned facilities such as airports, ports, high-speed intercity rail, and solid waste disposal sites.

PABs employ the best features of successful public-private partnerships, spreading risk and encouraging innovation. By reducing a government's project management burdens and its risk (with PABs, the private entity assumes much of the financial risk and administrative responsibility), multi-year projects and a broader project load become more feasible as the government has more resources to allocate. Also, PABs do not affect the municipality's bond rating, an important benefit of PABs for municipalities. There is considerable private capital that could and would be invested in water infrastructure if the proper mechanisms were available, with some Wall Street estimates putting that value between \$2 and \$5 billion per year in new private spending.

Concluding Remarks

AGC thanks the Committee for the opportunity to submit this statement for the record. The SRF program is highly successful, but is in danger of being underfunded out of existence or actively de-funded. AGC of America believes the approach outlined above must be taken to give every locality – from the smallest rural towns to the biggest urban centers – the widest range of possible mechanisms to fund water and wastewater construction. Many of these options have been sporadically available in the past and remain good ideas waiting to come off the shelf. A true solution to the water infrastructure financing crisis would include making all of these options available all the time. Permanent long-term solutions are the only way to avert further crisis, let municipalities and contractors plan for the future, and truly safeguard our environment and health.