Statement of
The Associated General Contractors of America
to the
Subcommittee on Water Resources and Environment
Committee on Transportation and Infrastructure
U.S. House of Representatives

For a hearing on
“Review of Innovative Financing Approaches for Community Water Infrastructure Projects -- Part I”

February 28, 2012

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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.

Founded in 1918 at the express request of President Woodrow Wilson, AGC is the leading association in the construction industry representing more than 33,000 firms in nearly 100 chapters throughout the United States. Among the association’s members are approximately 7,500 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. 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 (USDA) Rural Utilities Service. Most are small and closely-held businesses.

AGC believes that the needs for water infrastructure have been growing for decades, made worse by dwindling federal investment. While many solutions to this problem have been proposed over the years, none is a panacea. Some of these solutions we enacted on a temporary basis, others remain theoretical. As such, AGC believes that an array of tools should be made available on a permanent basis to local governments to ease the burden of water infrastructure upgrades.

**Water Infrastructure Needs and the Investment Gap**

Even before the current economic downturn, many of our cities and towns, which include everything from large urban to 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. State and local governments will continue to bear the brunt of this double-edged problem. EPA projects that more than $600 billion is needed in infrastructure improvements over the next 20 years simply to keep pace, yet consistent dwindling of federal commitment to water infrastructure programs has resulted in a gap in funding of more than $20 billion annually.
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 entire 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 balanced budget requirements. 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 support 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.

Economic Advantages

Federal support for drinking and wastewater systems delivers a tremendous return for taxpayers by lowering healthcare costs, reducing the cost of cleaning up polluted waterways, and contributing to increased economic vitality. Robust water infrastructure provides a solid foundation for business that wells and septic systems simply cannot. Regular federal investments in infrastructure also save taxpayers money as it costs a lot less to maintain infrastructure than it does to repair it. The cost of replacing water pipes through routine maintenance is typically between $100 and $300 per linear foot. The cost to repair a water main break is approximately $1,500 per linear foot, not including the costs of flooding damage, closures of businesses, and health hazards to those in the area.

Spending on construction also creates jobs. Professor Stephen Fuller of George Mason University found that for every $1 billion in spending on infrastructure, 28,500 jobs are created in construction and construction-related activities which includes 9,700 (34%) direct construction jobs; 4,600 (16%) indirect jobs in supplier industries (mining, manufacturing and services); and 14,300 (50%) induced jobs resulting from purchases out of the additional income of workers and owners in the directly and indirectly supported industries. The US Conference of Mayors found that every job created in water and sewer infrastructure creates over three additional jobs in the national economy to support that job.

The 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. Congress slashed almost $1 billion from the SRFs for FY2011 and the House nearly cut almost another $1 billion in critical funding during its consideration of appropriations for the EPA earlier in 2011. This instability hurts long-term planning, and can actually drive up the cost of construction because contractors will leave the market for more stable types of construction. AGC of America believes that a more stable revenue stream benefits everyone and is required to ensure that we are keeping up with the national need for safe and clean water.

Even success stories like the water investment in the Recovery Act saddled the SRF program with needless ‘Buy American’ restrictions that artificially constrained the supply chain, resulting in institutional paralysis, overcorrection, and project delay. While national and project-specific waivers helped to alleviate the morass caused by the application of these regulations to programs that had never had to comply with them previously, the delays and cost overruns needlessly reduced the effectiveness of the Recovery Act spending.

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.

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. But in this case we can use the model of the highway trust fund that has been extremely successful to build a dedicated long-term, sustainable, off-budget source of funding for water infrastructure such as a trust fund, which would create market certainty in the water and wastewater markets.

Polling has shown that people believe that the government has a responsibility to provide clean water. In fact, 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 created 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. Congress should expand and make permanent the BAB program.

Another important financing mechanism to consider would be a federal water infrastructure bank. One of the success stories of the Surface Transportation Program has been the Transportation Infrastructure Finance and Innovation Act program (TIFIA). It seems more than likely that that success could be easily replicated for the water and wastewater infrastructure markets. This is especially true given that water and wastewater systems already have a built in system of collecting revenue (for loan repayment purposes) through ratepayers. A national program that was able to give direct loans and loan guarantees to water infrastructure projects could help take some of the pressure off the SRFs. A program with potential to carry this out already exists in statute in Section 213 of the Clean Water Act, but it has never been funded or utilized. This structure can be used, modified, or even replaced if necessary to allow state and local governments to utilize the full faith and credit of the U.S. Treasury with loan guarantees to lower the overall cost of the project.

Both the discussion draft for a Water Infrastructure Finance and Innovation Act (WIFIA) and HR 3145 contain programs based on this concept and should be commended for their creative approaches. Both have advantages, and are not competing concepts. An ideal water infrastructure bank would be authorized to give both direct loans and loan guarantees for projects. It would also adopt a sensible project value minimum dollar amount that doesn’t lock out the majority of water and wastewater systems and should reconcile the qualifications for “national or regional significance” that exist in other proposals for a national infrastructure bank. It would loan directly to the state SRF programs, using existing distribution formulas. Project priority lists developed by the localities should be used, rather than having EPA or Treasury select projects. The more this program uses existing mechanisms, the more likely it is to achieve acceptance and success. Unlike the traditional grants to the SRFs from the federal government, the loans from this bank would not require a state match, but would be repayable over a period of 30 years. It also makes the most sense to have the seed money for this program be some sort of dedicated or self-financing mechanism, rather than it just being an annual appropriation. Otherwise this program could fall victim to the same problems with dwindling annual appropriations that the SRFs face. If the programs work in tandem, why should they compete for funding from the same shrinking source?

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 2011 the volume cap for a state was the greater of either $95 per resident, or $277.8 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. There is a menu of financing tools available to Congress that is as wide in variety as it is deep in financial potential. However, it is critical to remember that water infrastructure financing is not, and should not be, a zero-sum operation. None of these options is mutually exclusive with the others, and indeed many would work better when combined. AGC believes that all should be available to spread the financing burden among as strong a foundation as possible to help this critical sector of a nation’s infrastructure.

The SRF program is highly successful, but is in danger of being underfunded further or zeroed out altogether. 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.