

RICHARD L. HANNA  
22ND DISTRICT, NEW YORK

COMMITTEE ON  
TRANSPORTATION & INFRASTRUCTURE

COMMITTEE ON  
SMALL BUSINESS

CONTRACTING AND WORKFORCE SUBCOMMITTEE  
CHAIRMAN

JOINT ECONOMIC COMMITTEE

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-3222

WASHINGTON OFFICE:  
319 CANNON H.O.B.  
WASHINGTON, D.C. 20515  
PHONE: 202-225-3665  
FAX: 202-225-1891

DISTRICT OFFICES:  
49 COURT STREET, SUITE 230  
BINGHAMTON, NY 13901  
PHONE: 607-723-0212  
FAX: 607-723-0215  
  
258 GENESEE STREET  
UTICA, NY 13502  
PHONE: 315-724-9740  
FAX: 315-724-9746  
<http://hanna.house.gov>

August 11, 2016

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, DC 20460

Dear Administrator McCarthy:

We respectfully request that in developing an interim final rule implementing the Water Infrastructure Financing and Innovation Act (WIFIA) program you include provisions clarifying that the Miller Act and its associated performance and payment bonding requirements or equivalent bonding requirements apply to any P3 projects funded or financed by the federal government.

The Miller Act requires that all federal construction contracts be bonded to ensure the work is completed according to the contract and that workers, subcontractors, suppliers and others get paid. However, there is some concern that such bonding requirements may not apply to public works projects funded by the federal government if they are carried out by a private entity under a P3 agreement (such as those authorized by Section 5014 of the Water Resources Reform and Development Act of 2014 (P.L. 113-121)). In addition, there are similar concerns that bonding requirements may not apply to public works projects *financed* by the federal government, such as those authorized by Subtitle C of (P.L. 113-121).

Bonding requirements are critical to protecting taxpayer investments and providing payment assurances to the many businesses furnishing labor, materials, and equipment on construction projects utilizing federal funding regardless whether through direct expenditures or through P3 agreements.

Therefore, we respectfully request that the EPA affirm in its implementing regulations that performance and payment bonding requirements apply to WIFIA projects. I look forward to working with you on this technical, but important issue and thank you for your consideration.

Warm Regards,



Richard Hanna