



THE UNITED STATES  
CONFERENCE OF MAYORS



May 26, 2026

Ms. Tara Johnson  
Office of Wastewater Infrastructure Division  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

**RE: Comments on EPA's Clean Water Act Financial Capability Assessment Guidance  
Docket ID No. EPA-HQ-OW-2026-1090**

Dear Ms. Johnson,

On behalf of the nation's mayors, cities and counties, we appreciate the opportunity to submit comments on the U.S. Environmental Protection Agency's (EPA) Request for Comment on EPA's Clean Water Act (CWA) Financial Capability Assessment (FCA) Guidance, published in the Federal Register on March 26, 2026. We commend EPA for reconsidering the current guidance and support the Agency's efforts to reform the FCA to ensure that low- and fixed-income households are not unduly burdened by their water bills.

**We urge EPA to withdraw the current 2024 FCA Guidance and to instead adopt the finalized but unpublished 2020 FCA Guidance with modifications.** Our organizations supported the 2020 FCA Guidance as a workable framework for communities to address affordability.

Local governments are the primary investors in water and sewer infrastructure, with total annual spending rising nearly 200% from 2000 to 2024. According to the U.S. Census data, in 2024 alone, local combined water and sewer annual spending rose to a historic \$179 billion, with sewer capital investments rising to nearly \$50 billion in 2025. During this period, however, Congress has kept the premiere federal financial assistance program—the Clean Water and Drinking Water State Revolving Funds (SRFs)—at a comparatively low level. Combined annual appropriations for the SRFs have barely increased since 2000, from \$2.2 billion to \$2.8 billion in 2024, far below the growth in local utility spending and infrastructure needs.

The FCA Guidance aims to address the high cost burden of water bills for the 50% of local wastewater and sewer utility customers below the Median Household Income (MHI) level by allowing communities to present broad socio-economic information that can help EPA accurately evaluate a community's financial capability to meet CWA requirements. There are a number of key factors that continue to drive rising costs, including aging infrastructure, rapid inflation and population growth—all of which are largely outside of EPA's control.

A fourth factor contributing to the high cost burden for customers is under EPA's purview: the result of a variety of water-related regulations, including the Combined and Sanitary Sewer Overflow (CSO/SSO) elimination requirements, that EPA promulgates without regard to unfunded mandates and the overall and cumulative costs to customers and communities. Local governments need more flexibility to achieve clean water standards, and the FCA Guidance is a tool to help achieve this.

Our organizations worked with several prior Administrations to address local government concerns that federal unfunded mandates required increased local spending on water and wastewater and caused a substantial and widespread cost burden on local utility customers. The dialogue between EPA, local governments and clean water stakeholders helped shape the FCA Guidance in 2020 that more effectively addressed the concerns of the municipal and water community while also recognizing the financial realities facing communities, particularly low-income households.

The 2020 FCA Guidance signed in January 2021 largely supported the mutual priorities of the federal government and local governments by providing a workable framework for communities to address affordability while meeting CWA standards. We were disappointed when EPA withdrew that guidance, and found its subsequent version (proposed in 2022, finalized in 2023 and updated in 2024) lacked true flexibility for local governments, failed to adequately measure local affordability metrics, preempted state and local decision making, and placed additional burdens on public water systems.

Given that the FCA Guidance has undergone multiple revisions in recent years, and in light of numerous new federal regulations facing public water systems (lead pipes, PFAS, cybersecurity), we urge EPA to move expeditiously to reinstate the 2020 FCA Guidance with modification. The opportunity to develop FCA Guidance that not only provides information about what a community and residents can realistically afford, but that is also durable and provides certainty for local leaders is essential to the delivery of safe and affordable municipal water services. As utility and cost of living affordability becomes an increasingly important issue for households nationwide, EPA has the opportunity to make a meaningful impact in water affordability by revising the FCA Guidance.

The remainder of our comments express our concerns with the 2024 FCA Guidance and offer recommendations for improving both the 2020 and 2024 FCA Guidance, depending on the path forward chosen by the Agency, to support local, state and federal leaders in meeting our mutual goals of affordable clean water.

### **Specific Recommendations for Amending the FCA Guidance**

#### **A. Remove the Financial Alternatives Analysis Requirement**

The 2024 Guidance requires communities to conduct a Financial Alternatives Analysis (FAA), which serves as a "checklist" of financial considerations a community must complete before it is allowed to be considered for relief the FCA shows they deserve. It

is an onerous, expansive undertaking that forces consideration of numerous funding options including alternative rate structures that are neither consistent with best practice or current state laws in some cases. Furthermore, we believe EPA has underestimated the additional costs, resource allocation, legal assistance, and staff needed to fully conduct these analyses.

While we understand EPA's intent to ensure communities consider all financial avenues, the FCA Guidance, however, is not the proper tool to do so. It is simply not the role of the EPA to preempt local decision-making by requiring a community to justify that it has taken all possible steps to mitigate financial impacts and achieve compliance as fast as possible. Additionally, the requirement presumes that all the options listed in the Appendix are feasible for all communities, which is not always the case. In doing so, the FCA assumes the EPA, rather than local governments, is in the position of judging how best to address local conditions and needs.

For these reasons, we recommend eliminating the FCA requirement from the Guidance.

## **B. Incorporate Cost-of-Living Metrics**

EPA requests comment on whether it should incorporate cost of living metrics, and if so, what this analysis should look like. EPA also specifically requests input on the effectiveness of the Lowest Quintile Residential Indicator (LQRI) in measuring financial stress. Our organizations strongly recommend that EPA explicitly incorporate cost-of-living considerations into the FCA Guidance and restore use of the LQRI as a core component of the assessment framework.

The 2020 Guidance incorporated the LQRI into financial capability assessments, and this metric provides a more accurate representation of high-cost burden than MHI, which was a primary factor in traditional FCAs. Where customer financial burdens are significant, the LQRI approach allows the Expanded FCA Matrix to present a more realistic picture of a community's financial capability to fund additional CSO controls.

In earlier versions of the FCA, EPA relied solely on metrics such as percentage of median household income or the federal poverty level to assess local financial realities. In doing so, they failed to fully assess the wide range of affordability challenges facing residents, especially low-income households. Housing, transportation, utility and overall cost of living expenses can differ greatly by community, region-by-region and even within the same state. Therefore, reliance on national benchmarks risks misrepresenting local affordability challenges. For example, in high-cost regions, this can result in EPA overestimating a community's financial capacity and burdening them with unsustainable, costly, and unworkable compliance requirements.

The LQRI metric coupled with an accurate local/regional cost of living assessment can offer a more accurate depiction of real-life financial stress for customers in a particular community. We recommend EPA consider using [United Way's Asset Limited, Income](#)

[Constrained, Employed \(ALICE\) threshold](#), which uses a standardized set of measurements to quantify the cost of a basic household budget in each city, county or state. This would give EPA a more accurate understanding of actual household-level financial hardships, including those who may be technically above the federal poverty level, but struggling to meet basic expenses.

Additionally, we also strongly encourage EPA to consider all water costs, including compliance with the Safe Drinking Water Act (SDWA) and CWA, as part of the calculation for compliance and cost-of-living/financial burden. Most residents do not differentiate between their drinking water and sewer costs, and the money they use to pay these bills comes from the same bank account. As a result, communities have to be mindful of raising rates on both water and sewer bills so as to not cause an undue financial burden on individual households. When EPA forces communities to engage in consent orders to address clean water issues without factoring in potential costs on drinking water requirements, many communities find they do not have the resources to comply with both CWA and SDWA requirements without financially overburdening their poorest and most vulnerable citizens.

Overall, EPA should encourage communities to provide any supplemental information that they believe best provides a clear picture of their financial circumstances.

### **C. Provide Maximum Flexibility and Allow for Longer Implementation Schedules**

Going against a decade of EPA policy, the 2024 FCA Guidance severely restricted the amount of time communities had to meet the requirements of their long-term control plans (LTCPs) to 20 years (25 in some case-by-case scenarios), no matter what projects needed to be built or the financial capability of the community. This limitation remains one of our most critical concerns with the 2024 FCA Guidance and has significant impacts regarding overall ability to meet CWA standards and requirements of negotiated consent decrees.

It is not uncommon that communities have needed upwards of 50 years to meet the requirements of their compliance schedule. Therefore, setting rigid timeframes of 20 to 25 years is unworkable for many communities, and will either force them into long-term debt, to delay or abandon other priority investments and improvements, and/or drastically raise water and sewer rates. All of these outcomes go against the fundamental intent of the FCA Guidance, which is to work with financially burdened communities to reduce CSOs/SSOs and improve overall water quality standards. If long-term control plans cannot be completed in a way that is affordable for the community, or if they further burden customers with additional costs or increase public health risks because other investments are being diverted away, then the policy is not sustainable and will not result in meaningful public benefit.

Reducing CSO/SSO discharges and achieving water quality standards are critically important for communities, and it remains a key priority for local leaders. We caution that

setting stringent limits on completion of LTCPs can have the opposite effect of meeting these goals. Therefore, we urge EPA to remove the 25 year limit on compliance schedules and to not set any specific number of years but rather base the determination on the data presented through the FCA.

**D. Encourage Integrated Planning and Green Infrastructure Concepts**

Our organizations and EPA designed the Integrated Planning Framework as a new approach to meeting CWA requirements in a more environmentally-efficient and cost-effective manner. Incorporating green infrastructure as part of a community's long-term control plan to address stormwater and wastewater issues was not an allowable tool prior to 2011. By working with EPA, we were pleased when EPA issued a memorandum to the Regional Offices in April 2011 that encouraged them to allow the use of green Infrastructure as a solution. We believe Integrated Planning can be a highly effective tool for local governments and we appreciate EPA's support for its use.

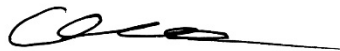
We appreciate that in the current 2024 FCA, EPA encourages communities to utilize integrated planning to help achieve compliance. We urge EPA to once again encourage communities to use green infrastructure and other innovative technologies to achieve compliance in a cost-effective manner.

In conclusion, thank you for the opportunity to provide the local government perspective on this critical guidance to better determine community affordability. We strongly recommend that EPA withdraw the current 2024 FCA and reissue the 2020 FCA Guidance in its place. If you have any questions, please contact our staff: Judy Sheahan (USCM) at 202-355-8540 or [jsheahan@usmayors.org](mailto:jsheahan@usmayors.org); Carolyn Berndt (NLC) at 202-626-3101 or [Berndt@nlc.org](mailto:Berndt@nlc.org); or Charlotte Mitchell Duyshart (NACo) at 202-661-8826 or [cmitchell@naco.org](mailto:cmitchell@naco.org).

Sincerely,



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