

NUCA Explores Potential for Private Investment in Water Market

By Eben Wyman



Although NUCA continues to keep the pressure on Congress to advance legislation that would reauthorize the EPA's State Revolving Fund (SRF) programs at significantly higher funding levels, the association recognizes that at this point any and all reasonable funding solutions should be on the table for consideration. Because the nation will face more than a half-trillion dollars in water and wastewater infrastructure needs in approximately 12 years, there is more than enough room for multiple funding sources. That's why NUCA and other organizations are taking a serious look at the possibility of establishing a water infrastructure trust fund and other long-term solutions, including private investment in the water market.

No "Silver Bullet"

There's no need to rehash the numbers that underscore the recognized need for funding increases. Any regular reader of *Utility Contractor* reads about them all the time. Suffice it to say that whether you look at estimates from private industry, environmental groups or even the federal government, the results are clear: America's aging environmental infrastructure is deteriorating rapidly, and it will take a lot of money to make even a minor difference.

Meanwhile, even with SRF reauthorization legislation advancing further than it has in the past several years, SRF appropriations are low and finding the new money that Congress would authorize will be no easy task. Further, with the new fiscal conservatism, at least that of the new Democratic Congress, the availability of appropriated funds is decreasing, not increasing. In fact, currently Congress and the White House are fighting it out over a \$23 billion difference in total budget and appropriations numbers for all federal programs next year.

While NUCA and several other organizations interested in water and wastewater infrastructure continue to explore "dedicated sources of revenue," the show-stopper question "Who's going to pay for it?" has yet to be answered. NUCA continues to engage in these conversations, but don't hold your breath for a water trust fund bill to be passed in the near future. Even if it were to pass, there would still be plenty of room for other viable sources of funding.

Public-Private Partnerships

While the concept of opening the door to private investment to what are traditionally considered public markets commonly causes instant heartburn for many folks, opportunities for public-private partnerships (PPP) offer a number of benefits to government, industry and the American public.

The Government Accounting Office defines a PPP as a "contractual agreement formed between public and private sector partners that allows more private sector participation than is traditional." The GAO further states: "The agreements usually involve a government agency contracting with a private company to design, renovate, construct, operate, maintain, and/or manage a facility system. While the public sector usually retains ownership in the facility or system, the private party will be given additional decision rights in determining how the project or task will be completed."

PPPs became popular in the highway construction market in the mid-1980s, when state DOTs and transit agencies began outsourcing several planning and development activities to private contractors. As PPPs became more prevalent, their popularity grew, especially in the government and private sectors. PPPs offered government entities opportunities to encourage entrepreneurial management of projects, expedite project delivery and

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apply advanced technologies — all of which had the potential for reducing the volume of public payrolls. Private sector organizations benefited from PPPs through the expansion of their customer bases, diversification of business models, and in opportunities to participate in infrastructure investment.

Adjusting Private Activity Bonds (PABs)

The president’s FY2008 budget plan proposes to allow for more PPPs in the public water market by lifting the state volume cap on Private Activity Bonds (PABs). PABs work through a public-private partnership, wherein a municipality works with a private water company to receive tax-exempt financing for a water project that the state views as being in the public interest.

PABs are currently restricted by congressional caps, based on a state’s population, that limit the total dollar amount that the state can use on them. These caps are obstructing the use of PABs in many areas. The president’s budget calls for legislation that would eliminate the volume cap on PABs in order to encourage additional needed private investment for water and wastewater infrastructure refurbishment. Currently, only a few water and wastewater projects are funded with PABs because they are eclipsed by more “politically attractive” projects such as housing or school construction that compete under the same cap.

NUCA is under no illusion that the administration has a new appreciation of the importance of funding the nation’s environmental lifelines. This proposal is

merely the administration’s desire to have private money pay for needed projects in lieu of spending federal dollars. However, consistent with the position that all reasonable funding sources should be considered, NUCA fully supports the provision. Although there appears to be considerable interest in the subject, legislation that would lift the cap had not yet been introduced at the time this article was written.

Bringing water projects from under the PAB state volume cap would offer a number of benefits, including the:

- Expansion of the availability of financing to help communities tackle infrastructure refurbishment needs;
- Reduction of the cost of project financing, which would assist in controlling water and sewer rates; and
- Sharing of the financial risk and responsibility with the cooperating private entity.

Addressing Local Concerns

In May, I had the privilege of presenting NUCA’s position on these matters at Benjamin Media’s “UIM Investing in Water Infrastructure Conference” at the Harvard Club in New York City. In brief, it is the association’s position that although NUCA believes that a strong federal component will be needed in underground infrastructure financing in the future, expanding opportunities for private investment in this market should also be considered. To encourage “out-of-the-box” thinking, NUCA has also participated in meetings with other associations and major corporations that are currently considering investment opportunities in the water infrastructure market.

Additionally, NUCA maintains that appeasing local anxieties will be fundamental to the passage of any legislation to remove the cap on PABs or to advance any further opportunities for PPPs. Among these concerns are: the reluctance of municipalities and/or other local water entities to relinquish any control over their decision making authority, issues that will inevitably be raised by labor organizations, and small business concerns such as access to larger, “design-build” projects.

Nonetheless, local officials will have to ask for participation from the private sector to meet their infrastructure needs; private participation will not be required. Therefore, the bottom line is that these concerns will need to be addressed if considerable private investment opportunities stand a chance in the water infrastructure market. NUCA is simply encouraging all stakeholders to look at these opportunities with an open mind.

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