



## VIRGINIA-D.C.-MARYLAND CHAPTER

11712C Jefferson Avenue # 254 • Newport News, VA 23606

February 16, 2011

Ms. Elizabeth M. Murphy, Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

Re: File No. S7-45-10; "Dodd-Frank" Act (Section 975 of Title IX) – 17  
CFR Parts 240 and 249 – Registration of "Municipal Advisors"

Ms. Murphy,

On behalf of the APWA-VA/DC/MD Chapter and Board of Directors, this will serve as our written statement as being **OPPOSED** to the proposed regulations and requirements for professional engineers (and professional architects) to register with the Securities and Exchange Commission (SEC) as "Municipal Advisors."

Professional engineers provide valuable professional design and related consultant services for municipal government agencies and their services are provided as a result of Qualifications Based Selection (QBS) processes as prescribed by the Brooks Act and associated QBS regulations. As such, these engineering professional services for infrastructure evaluations, studies, and design contracts by their very nature involve and require cost analyses. In addition to the normal benefit-cost analysis, or "life-cycle" cost analysis for municipal infrastructure projects, professional engineering services also are required to address such facets as costs associated with rates for water, sewer and/or storm-water utilities. It is a necessary component for any engineering evaluation to include such cost and related rate information, but that does not mean that professional engineers should be considered or classified as financial advisors, or otherwise as a commodity related service. Engineers and architects who are engaged in design related services for municipal agencies do so as "Professionals" and are guided and bound by the legal and professional requirements of the individual states who enforce professional and occupation regulations.

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On pages 39 and 40 of the 231 page document entitled “**SECURITIES AND EXCHANGE COMMISSION; 17 CFR Parts 240 and 249; [Release No. 34-63576; File No. S7-45-10] RIN 3235-AK86; Registration of Municipal Advisors**” it states:

*“With respect to engineers, the exclusion applies to engineers providing “engineering advice.” For example, costing out engineering alternatives would not subject an engineer to registration as a municipal advisor because such activity would be considered engineering advice. The exclusion does not include circumstances in which the engineer is engaging in municipal advisory activities, including cash-flow modeling or the provision of information and education relating to municipal financial products or the issuance of municipal securities, even if those activities are incidental to the provision of engineering advice. In addition, the exclusion does not include circumstances in which the engineer is preparing feasibility studies concerning municipal financial products or the issuance of municipal securities that include analysis beyond the engineering aspects of the project and, therefore, an engineer preparing such studies would be subject to registration as a municipal advisor.”*

It is wrong to consider that feasibility studies, as a part of a professional engineering design service, should be considered as a requisite as a “municipal advisor.” It is normal and common practice for a professional engineering service to include such financial recommendations, such as rates for utilities, HOWEVER, that does not place professional engineers in the same category as “municipal advisors.”

We stand fully and completely **OPPOSED** to any control, regulation, registration or otherwise involvement by the SEC in the realm of professional engineering services. Engineers should **NOT** be required to be registered with SEC as “municipal advisors.”

Respectfully submitted,

  
David King

President,

Virginia/DC/Maryland Chapter, American Public Works Association

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