



April 26, 2019

WIFIA Program: Background and Recent Developments

To promote development of and private investment in water infrastructure projects, the 113th Congress authorized the Water Infrastructure Finance and Innovation Act (WIFIA) in the Water Resources Reform and Development Act of 2014 (P.L. 113-121, Title V; 33 U.S.C. §§3901-3914). Initially established as a five-year pilot program, WIFIA authorizes the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) to provide credit assistance—secured or direct loans—for a range of water infrastructure projects. The 115th Congress made several changes to the WIFIA program in America’s Water Infrastructure Act of 2018 (AWIA; P.L. 115-270), enacted on October 23, 2018.

Capital improvements for drinking water and wastewater systems seek to protect public health and support local economies, and typically require major investments. In its most recent compilation surveys, EPA estimated that the capital cost of wastewater and drinking water infrastructure needed to meet Clean Water Act (CWA) and Safe Drinking Water Act (SDWA) objectives exceeds \$744 billion over 20 years. This amount does not include costs to extend services to accommodate population growth or to repair infrastructure not linked to statutory compliance and related health and environmental goals.

Communities generally pay for water projects through debt-financing (e.g., municipal bonds) and revenue from user fees. In 2017, state and local resources accounted for more than 96% (\$108.8 billion) of the public spending on water utilities, while the federal contribution accounted for the remaining 4% (\$4.2 billion), according to the Congressional Budget Office.

USACE-Administered WIFIA Program

Eligible projects for the authorized USACE-administered WIFIA program include water resources projects for flood reduction projects, environmental restoration, coastal and harbor navigation improvement, among other purposes. The USACE-administered WIFIA program has not advanced into implementation. In the conference report for USACE FY2019 appropriations (H.Rept. 115-929), Congress directed USACE to develop its proposal for WIFIA.

WIFIA complements two EPA-administered programs: the Clean Water State Revolving Fund (SRF) and Drinking Water SRF. For FY2019, combined appropriations for the SRF programs totaled \$2.85 billion. In both programs, EPA uses funds to provide grants to states to capitalize their SRF loan programs. States use their federal grant to leverage resources (e.g., issue bonds) and to provide assistance

(primarily subsidized loans) to public water systems and publicly owned wastewater utilities for projects that support statutory objectives.

Program Design

Annual WIFIA appropriations primarily cover long-term credit subsidy costs, which are calculated to cover the risk that the loan will not be repaid. As such, relative to its budget authority (e.g., \$68 million in FY2019), WIFIA appropriations may provide a large amount of credit assistance (e.g., estimated at \$7.31 billion for FY2019). WIFIA assistance, which is repaid to the U.S. Treasury, is intended to have less of a federal budgetary effect than the SRFs as states do not repay capitalization grants to the federal government.

Each WIFIA loan has a fixed interest rate, which is the U.S. Treasury rate for loans with a similar maturity on the date of loan execution. WIFIA borrowers can structure the repayment schedule to align with anticipated receipt of revenue. Initial payments of WIFIA assistance may be deferred up to five years after the project’s completion and the repayment period may be extended up to 35 years after completion. WIFIA loans may be combined with other sources of debt-financing. For more information, see CRS Report R43315, *Water Infrastructure Financing: The Water Infrastructure Finance and Innovation Act (WIFIA) Program*.

Eligibility

The range of eligible projects for the EPA-administered WIFIA program is broader than the SRF programs. WIFIA eligible projects include SRF projects as well as desalination, drought mitigation, and enhanced energy efficiency projects for drinking water systems or wastewater treatment works.

Eligible entities for WIFIA assistance include (1) a state infrastructure financing authority (SIFA); (2) a corporation; (3) a partnership; (4) a joint venture; (5) a trust; or (6) a federal, state, local, tribal government or instrumentality. Unlike the Clean Water SRF, both public and private entities can use WIFIA assistance for eligible projects. Private entities must have a public sponsor to be WIFIA eligible.

WIFIA establishes broad selection criteria that EPA uses to rank projects, including the project’s national or regional significance with respect to economic and public benefits, creditworthiness, and readiness.

To be eligible for WIFIA, projects generally must exceed \$20 million. For small communities (defined as 25,000

people or less), eligible projects must exceed \$5 million. WIFIA directs EPA to set aside 15% of each WIFIA appropriation for assistance to projects that serve small communities. If those funds remain unobligated by June 1 of that fiscal year, the set-aside may be used for any project.

To spur private investment, WIFIA assistance can generally support no more than 49% of project costs; however, EPA may use as much as 25% of appropriated funds to provide assistance in excess of 49% of project costs. Total federal assistance, including from WIFIA, may not exceed 80% of a project's costs, with some exceptions.

The Trump Administration's FY2019 budget requested \$20 million for EPA's WIFIA program, while Congress provided \$68 million (P.L. 116-6). For FY2020, the Administration requested \$25 million for WIFIA, of which \$20 million would support credit subsidies. See **Table 1** for FY2017, FY2018, FY2019 appropriations, subsidy costs, and estimated loan potential. In WIFIA appropriations, Congress has specified amounts both for loan subsidy costs and EPA program administration costs.

Table 1. WIFIA Appropriations, Subsidy Costs, and Estimated Loan Potential

Fiscal Year	Appropriation	Subsidy Costs	Estimated Loan Capacity
(nominal \$ in millions (not adjusted for inflation))			
2017	\$30	\$25	\$1,000
2018	\$63	\$55	\$5,500
2019	\$68	\$60	\$7,310

Source: Compiled by CRS using enacted appropriations, EPA loan capacity estimates, and loan capacity estimate in conference report H.Rept. 116-9, that accompanied P.L. 116-6.

Amendments in the 115th Congress

Congress amended WIFIA in AWIA (P.L. 115-270) to remove the pilot designation from the program, extend the authorization of appropriations for EPA, and revise several program administration provisions.

AWIA authorizes EPA appropriations of \$50 million for FY2020 and FY2021. For each of these years, AWIA Section 4201 increases the amount of authorized appropriations that EPA can use for administrative purposes—including technical assistance to help sponsors obtain necessary approvals—from \$2.2 million to \$5.0 million.

Several revisions to the WIFIA program address SIFAs' use of WIFIA financial assistance. AWIA authorizes an appropriation of additional \$5.0 million for each of FY2020 and FY2021 for WIFIA assistance to SIFAs to support combined projects eligible for assistance from the SRFs, under specified conditions. AWIA further authorizes SIFAs to finance 100% of project costs with WIFIA assistance.

AWIA clarifies that SIFAs cannot pass WIFIA application fees on to parties that utilize the assistance. Prior to AWIA, WIFIA projects required two letters of credit from rating

agencies. AWIA authorizes projects from SIFAs to supply one letter of credit. AWIA also requires EPA to review and approve or provide guidance on WIFIA projects submitted by SIFAs within 180 days. AWIA prohibits repayment of WIFIA assistance from federal SRF capitalization grants.

AWIA further amends WIFIA to authorize EPA to enter into agreements with relevant federal agencies to administer and service loans that such agencies are authorized to make. AWIA Section 4301 directs EPA and the Department of the Interior's Bureau of Reclamation to enter into such an agreement. Such agreements may avoid duplication of WIFIA-related administrative functions across agencies.

EPA Implementation

For each year that Congress appropriates funds for WIFIA subsidies, EPA publishes a Notice of Funding Availability (NOFA) that provides interested entities with WIFIA application information. In each NOFA, EPA identifies additional considerations for project prioritization (e.g., repairing aging infrastructure and addressing drinking water contamination). The NOFA invites entities to submit a letter that validates the eligibility of the entity and project, provides preliminary engineering assessments and prospective borrower information, and evaluates the proposed project against the NOFA's selection criteria.

Based on the submitted letters of interest, EPA invites selected entities to submit an application to EPA within one year. The application must contain information on the prospective project, including a comprehensive financing plan, maintenance and operation plan, and an assessment of the project's creditworthiness, among other details. For SRF-eligible projects, WIFIA requires EPA to notify the relevant state infrastructure financing authority to give states the opportunity to fund the project through the SRF.

EPA began issuing WIFIA loans in 2018. In response to the FY2017 NOFA, EPA received 43 letters of interest requesting a total of \$6 billion in loans. Of the 43 letters, EPA selected sponsors of 12 projects (drinking water and wastewater infrastructure, stormwater management, and water recycling) in 9 states; EPA invited these project sponsors to apply for loans totaling \$2.3 billion. As of April 2019, eight of these projects have closed on their loans.

In response to the FY2018 NOFA, EPA received 62 letters of interest requesting \$9.1 billion in WIFIA loans. The majority of the interested entities are municipal agencies requesting funds for wastewater and drinking water infrastructure, water recycling, desalination, and stormwater management. In November 2018, EPA invited 39 projects totaling \$5.5 billion in 16 states and the District of Columbia to apply for WIFIA loans. As of April 2019, EPA had received one application for these selected projects.

EPA released the FY2019 NOFA to solicit letters of interest for WIFIA loans on April 5, 2019.

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