



HANDBOOK

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EXECUTIVE SUMMARY

The WIFIA Program Handbook, written for prospective borrowers, describes how the U.S. Environmental Protection Agency (EPA) administers the Water Infrastructure Finance and Innovation Act (WIFIA) program (the WIFIA program).¹ Upon reading this handbook, prospective borrowers should be able to understand the requirements and procedures for obtaining WIFIA credit assistance and remaining in compliance with WIFIA program rules and regulations.

This handbook consists of eight sections and five appendices as follows:

Section 1 – Introduction to WIFIA provides background information on the WIFIA program, introduces the WIFIA program’s objectives, and describes the administration and organization of the WIFIA program. This section helps the reader understand the mission of the WIFIA program, the legislative actions that created and fund the WIFIA program, and the different parties within the government that are involved in administering the WIFIA program.

Section 2 – Eligibility Requirements lists the statutory eligibility requirements that projects and entities applying for WIFIA credit assistance must meet, as well as the compliance requirements for borrowers receiving WIFIA credit assistance. This section helps the reader determine whether it is eligible to apply for WIFIA credit assistance and what successful borrowers must do to remain in compliance.

Section 3 – Terms and Conditions of WIFIA Credit Assistance presents the terms of WIFIA credit assistance required by statute, as well as key credit policies governing the WIFIA program.

Section 4 – Application Process Summary provides an overview of the process by which WIFIA credit assistance is awarded. It provides a high-level understanding of the major steps and milestones involved in obtaining WIFIA credit assistance and the order in which those steps occur.

Section 5 – Project Selection describes the selection phase of the application process, including the letter of interest submission and evaluation. This section helps prospective borrowers understand how to submit a complete letter of interest for WIFIA credit assistance and the process used by the WIFIA program to select projects to invite to submit applications.

Section 6 – Project Approval describes the approval phase of the application process, including application submission, evaluation, and approval. This section helps prospective borrowers understand how to submit a complete application for WIFIA credit assistance and what process and criteria the WIFIA program will use to evaluate and approve projects to receive WIFIA credit assistance.

Section 7 – Negotiation and Closing describes the closing process, which occurs after projects have been approved for WIFIA credit assistance, the WIFIA program’s requirements for proceeding to closing, and the structure and purpose of the credit agreement.

¹ Electronic copies of this program handbook, application materials, and additional information regarding the WIFIA Program are located on the WIFIA website: <http://www.epa.gov/wifia>.

Section 8 – Post-Closing Activities and Monitoring Requirements explains the activities and requirements that follow closing, including the process by which disbursements and loan servicing occur, as well as the general requirements that borrowers must fulfill to maintain good standing within the WIFIA program.

Appendix A – Acronyms spells out the acronyms used in the handbook.

Appendix B – Definitions defines key terms used throughout the handbook.

Appendix C – Selection Criteria describes the selection criteria and the manner in which the WIFIA program will evaluate each criterion.

Appendix D – Fee Schedule outlines EPA’s final fee schedule.

Appendix E – Compliance Requirements lists laws and regulations with which borrowers receiving WIFIA credit assistance must comply.

Application Materials, including letter of interest and application forms for the WIFIA program, are available on the WIFIA website at www.epa.gov/wifia.

WIFIA Legislation and Regulations, including the statute, the implementation rule, and the fee rule, are available on the WIFIA website at www.epa.gov/wifia.

CONTACT INFORMATION

EPA welcomes questions and inquiries concerning the WIFIA program. The WIFIA program can be contacted at:

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Hearing- and speech-impaired persons may use TTY by calling the Federal Information Relay Service at 1-800-877-8339.

To receive announcements from the WIFIA program, sign up at <https://public.govdelivery.com/accounts/USAEPAOW/subscriber/new> and select "Finance and Funding."

SECTION 1

1.0 INTRODUCTION TO WIFIA

The Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) established a federal credit program (referenced hereafter as the WIFIA program) administered by the U.S. Environmental Protection Agency (EPA). The WIFIA program accelerates investment in water and wastewater infrastructure of national and regional significance by offering creditworthy borrowers loans² for up to 49 percent of eligible project costs.

WIFIA authorizes EPA to provide secured (direct) loans and loan guarantees to eligible water infrastructure projects. Prospective borrowers will submit a letter of interest that demonstrates their projects eligibility, financial creditworthiness, engineering feasibility, and alignment with EPA's policy priorities. Using the basic information about the project and the prospective borrower provided, EPA will evaluate and select projects based on criteria described in this handbook using weightings established in a separate Notice of Funding Availability (NOFA). Following project selection, prospective borrowers will be invited to submit an application to EPA. The purpose of the application is to provide EPA with materials necessary to underwrite the proposed WIFIA assistance, and to develop, through negotiation, individual credit agreements between the prospective borrower and EPA.

The logo for WIFIA, featuring the letters "WIFIA" in a bold, blue, sans-serif font. A small blue water droplet icon is positioned to the left of the letter "I".

The Water Infrastructure Finance and Innovation Act (WIFIA) program accelerates investment in our nation's water and wastewater infrastructure by providing long-term, low-cost, supplemental credit assistance under customized terms to creditworthy water and wastewater projects of national and regional significance.

WIFIA loans have distinct benefits that are not readily available in the capital markets. The WIFIA program is able to act as a patient investor and offer credit assistance with extended maturities due to the federal government's long-term investment horizon. It can offer borrowers the advantage of developing customized terms, including sculpted repayment terms to match the specific needs of a project. Finally, the WIFIA program lends at a low, fixed interest rate equal to the Treasury rate for a comparable maturity.

EPA recognizes the importance of capital markets in advancing the development and improvement of water and wastewater infrastructure throughout the nation. The WIFIA program is intended to complement existing funding resources rather than supplant them. Therefore, all projects that receive

² WIFIA authorizes EPA to provide loans or loan guarantees. The term "loans" will be used throughout this handbook in place of "loans or loan guarantees."

WIFIA credit assistance must be co-financed with other sources of funding, including tax-exempt or taxable bonds, loans, grants, and equity.

EPA balances the distinct credit advantages that the WIFIA program offers with prudent lending practices. The WIFIA program will only fund projects that it finds to be creditworthy during the evaluation process.

1.1 LEGISLATIVE REFERENCE

Congress enacted the WIFIA program as part of the Water Resources Reform and Development Act of 2014³ (WRRDA). WIFIA was subsequently amended by The Fixing America's Surface Transportation (FAST) Act of 2015⁴ and the Water Infrastructure Improvements for the Nation Act of 2016⁵. Chapter 52 of Title 33 of the United States Code⁶ codifies WIFIA, with supporting regulations appearing in 40 C.F.R. 35 subpart Q. These documents are provided on the WIFIA program website at www.epa.gov/wifia.

1.2 FUNDING OF WIFIA CREDIT ASSISTANCE

The WIFIA program is governed by The Federal Credit Reform Act of 1990⁷. Therefore, EPA is required to estimate the long-term credit subsidy cost of each WIFIA credit instrument, account for this cost with an appropriation by Congress, and set it aside in a reserve. EPA must estimate and set aside this reserve before it can close or disburse WIFIA credit assistance. Congress appropriates funding to cover the credit subsidy cost of WIFIA credit assistance. Congress may also set a loan limit on the total amount of WIFIA credit assistance that can be extended under each appropriation.

1.3 PROGRAM ADMINISTRATION

The WIFIA program provides credit assistance to eligible borrowers. It is housed in the Water Infrastructure Division in the Office of Wastewater Management within the Office of Water and led by a Program Director.

³ [P.L. 113-121, §§5022-5035](#)

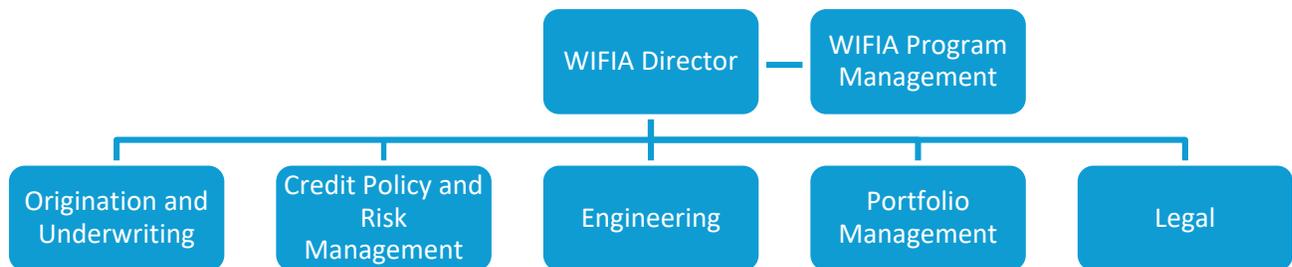
⁴ [P.L. 114-94](#)

⁵ [P.L. 114-322](#)

⁶ [33 U.S.C. §§3901-3914](#)

⁷ [2 U.S.C. §661 et seq.](#)

FIGURE 1: WIFIA PROGRAM ORGANIZATIONAL STRUCTURE



As displayed in Figure 1, the organizational structure of the WIFIA program contains a Program Director and six teams:

- **Program Director** manages the WIFIA program, develops program policy and leads interaction with the Credit Review Board, Credit Council, and EPA leadership.
- **WIFIA Program Management** team provides comprehensive program support. Functions include communication, program evaluation, contract management, and development of program policy.
- **Origination and Underwriting** team guides projects through the application process, including letter of interest and application intake and review, and communication with prospective borrowers. The Origination and Underwriting team leads the negotiation of the terms and conditions for WIFIA transactions and performs credit evaluations to ensure repayment of the WIFIA debt. This team communicates with external parties, including performing outreach to explain the application process to prospective borrowers and serving as primary points of contact during the application process.
- **Credit Policy and Risk Management** team reviews the credit analysis performed by the Origination and Underwriting team. This team establishes and monitors the credit policy and risk management for individual WIFIA loans as well as the WIFIA loan portfolio. The Credit and Risk Management team provides the overall risk assessment for WIFIA transactions and calculates the federal credit subsidy cost of the WIFIA credit assistance. This team also acts as the main contact with outside credit and risk oversight stakeholders such as Office of Management and Budget.
- **Engineering** team assesses the feasibility of each project and the reasonableness of submitted technical documents. This team evaluates the design, operating, and engineering plans and coordinates with technical advisors, as necessary.
- **Portfolio Management** team manages assets and monitors the financial compliance of approved projects. As part of these responsibilities, the Portfolio Management team monitors changes in financial covenants and in the portfolio-at-risk to preempt any events that may lead to default. This team approves disbursements and services WIFIA credit assistance.

- **Legal** team oversees the drafting of legal documentation, including term sheets, credit agreements, and related financing documents.

SECTION 2

2.0 ELIGIBILITY REQUIREMENTS

This section outlines the requirements that entities applying for and receiving WIFIA credit assistance must satisfy, as defined by the WIFIA statute, regulations, and EPA policy. Should a letter of interest or application demonstrate that the prospective borrower or project is not eligible, the WIFIA program will not continue evaluating the letter of interest and will not consider the project for WIFIA credit assistance.

2.1 ELIGIBLE BORROWERS

The entity applying for WIFIA credit assistance must be one of the following:⁸

- A corporation.
- A partnership.
- A joint venture.
- A trust.
- A federal, state or local government entity, agency, or instrumentality.
- A tribal government or consortium of tribal governments.
- A state infrastructure financing authority, as defined by the Clean Water Act and the Safe Drinking Water Act.⁹

2.2 ELIGIBLE PROJECTS

Prospective borrowers may only apply for WIFIA credit assistance with the purpose of undertaking one or several eligible projects.¹⁰ The following project types are eligible for WIFIA credit assistance:

- Wastewater projects that are eligible for the Clean Water State Revolving Fund as described under section 603 of the Federal Water Pollution Control Act,¹¹ notwithstanding the public ownership requirement under paragraph (1) of that subsection. The [Clean Water State Revolving Fund](#) website provides additional eligibility information for this project type.
- Drinking water projects that are eligible for the Drinking Water State Revolving Fund as described in section 1452(a)(2) of the Safe Drinking Water Act.¹² The [Drinking Water State Revolving Fund](#) website provides additional eligibility information for this project type.

⁸ [33 U.S.C. §3904\(1-7\)](#)

⁹ [33 U.S.C. 1383](#) and [42 U.S.C. 300j-12\(a\)\(2\)](#)

¹⁰ [33 U.S.C. §3905\(2-10\)](#) as amended by P.L. 114-xxx

¹¹ [33 U.S.C. 1383](#)

¹² [42 U.S.C. 300j-12\(a\)\(2\)](#)

- Projects that enhance energy efficiency in the operation of a public water system or a publicly owned treatment works.
- Projects for repair, rehabilitation, or replacement of a treatment works, community water system, or aging water distribution or waste collection facility (including a facility that serves a population or community of an Indian reservation).
- A brackish or sea water desalination project, including chloride control, a managed aquifer recharge project, a water recycling project, or a project to provide alternative water supplies to reduce aquifer depletion.
- A project to prevent, reduce, or mitigate the effects of drought, including projects that enhance the resilience of drought-stricken watersheds.
- The acquisition of real property or an interest in real property. The acquisition must either be integral to an eligible project described above, or would mitigate the environmental impacts of water resources infrastructure projects otherwise eligible for WIFIA assistance, as determined by the Administrator.
- A combination of eligible wastewater or drinking water projects, as defined in the first and second bullet above, for which a state infrastructure financing authority submits a single application.
- A combination of eligible projects, described in the first seven bullets above, secured by a common security pledge, for which a single eligible entity, or a combination of eligible entities, submits a single application.

For the purpose of clarity, eligible projects, including combinations of projects, will be referred to as a single project in this document.

2.3 COST THRESHOLD

In order for a project to be eligible for WIFIA credit assistance, the project's eligible costs, as defined in Section 3.3, must be reasonably anticipated to be at least \$20 million.¹³ This threshold is lower for projects serving small communities. Small community projects must be reasonably anticipated to total at least \$5 million. The statute defines projects in small communities as drinking water and wastewater projects, as defined in the first and second bullet above, that serve a community of not more than 25,000 individuals.¹⁴

2.4 PUBLIC SPONSORSHIP

Eligible projects carried out by private entities must be publicly sponsored. To satisfy this requirement, the prospective borrower must demonstrate that it has consulted with and gained the support of the affected state, local, or tribal government in which the project is located.¹⁵ Prospective borrowers may

¹³ [33 U.S.C. §3907\(a\)\(2\)\(A\)](#)

¹⁴ [33 U.S.C. §3907\(a\)\(2\)\(B\)](#)

¹⁵ [33 U.S.C. §3907\(a\)\(4\)](#)

demonstrate such support using any means by which government approval can be evidenced. Examples include a certified letter signed by the approving municipal department or similar agency, mayor or other similar designated authority, or local ordinance.

2.5 CREDITWORTHINESS

Projects applying for WIFIA credit assistance must demonstrate a reasonable assurance of repayment of the credit instrument over the term of the requested assistance. In determining a project's creditworthiness, the Administrator takes into account the following:

- The terms and conditions of the proposed financing.
- The financial structure and security features of the proposed financing.
- The dedicated revenue sources that will secure or fund the project obligation.
- The financial assumptions upon which the project is based.
- The financial soundness, credit history, and outlook of the prospective borrower.¹⁶

2.6 ELIGIBLE COSTS

Not all costs associated with eligible projects are eligible project costs. To determine whether a project meets the eligibility threshold for minimum project size, the WIFIA program must verify the eligibility of the project costs and calculate the total amount of eligible project costs included in the project. The WIFIA program must also ensure that the amount of WIFIA credit assistance as a percentage of total eligible project costs does not exceed the maximum percentage allowed under the statute, budget authority, and funding legislation. Eligible project costs are costs associated with the following activities, as defined in the statute:¹⁷

- Development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities.
- Construction, reconstruction, rehabilitation, and replacement activities.
- The acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation (including acquisitions that would mitigate the environmental impacts of water resource infrastructure projects otherwise eligible for WIFIA credit assistance), construction contingencies, and acquisition of equipment.
- Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction. Capitalized interest on WIFIA credit assistance may not be included as an eligible project cost.

¹⁶ [33 U.S.C. §3907\(a\)\(1\)\(B\)](#)

¹⁷ [33 U.S.C. §3906](#)

Prospective borrowers may request that costs incurred prior to submission of an application for credit assistance, including the value of any integral in-kind contributions, be included as a part of eligible project costs and be credited toward the 51 percent of project costs to be provided by sources of funding other than from the WIFIA program. The WIFIA program will approve such requests on a case-by-case basis. Other expenses associated with the application process, are not eligible activities and may not be included in the total eligible project costs. However, charges associated with obtaining the required rating opinion letters described in Sections 6.1.2 and 7.2 are eligible project costs. No costs financed internally or with interim funding may be refinanced later than one (1) year following substantial completion of the project. Fees charged by the WIFIA program, as described in Section 6.1.3, may be financed by the WIFIA credit assistance, and are included in the calculation of eligible project costs.

2.7 ADDITIONAL COMPLIANCE REQUIREMENTS

Projects receiving WIFIA credit assistance must comply with all relevant federal laws and regulations. The following subsections describe four requirements that are of particular importance to the WIFIA program. Appendix E lists additional compliance requirements, but is not intended as a comprehensive inventory.

2.7.1 AMERICAN IRON AND STEEL REQUIREMENT

The statute requires borrowers receiving WIFIA credit assistance to use iron and steel products produced in the United States.¹⁸ Borrowers may not use WIFIA credit assistance for the construction, alteration, maintenance, or repair of a project eligible for assistance unless all of the iron and steel products used in the project are produced in the United States. Therefore, even iron and steel products not purchased or financed by WIFIA, must comply with this requirement. By statute, “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.¹⁹ Equipment employed in construction but which does not become part of the project is not an “iron and steel product” for the purposes of this requirement.

Guidance developed for compliance with American Iron and Steel requirements for EPA’s State Revolving Fund programs applies to projects receiving WIFIA credit assistance. Such guidance can be found on EPA’s website at: <https://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement>.

EPA may grant waivers for a case or category of cases upon request from the borrower. EPA will grant a waiver if it finds that (i) applying these requirements would be inconsistent with the public interest; (ii) iron and steel products are not produced in the US in sufficient and reasonably available quantities and of a satisfactory quality; or (iii) inclusion of iron and steel products produced in the US will increase the cost of the overall project by more than 25%. Prospective borrowers should contact the WIFIA program with any questions regarding the American Iron and Steel Requirement and waivers.

¹⁸ [33 U.S.C. §3914](#)

¹⁹ [33 U.S.C. §3914\(b\)](#)

All national waivers issued by EPA, including the de minimis waiver, shall apply to projects receiving WIFIA credit assistance in the same manner as they apply to projects receiving assistance under the Clean Water and Drinking Water State Revolving Fund programs. American Iron and Steel national waivers are available on EPA's website at: <https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-approved-national-waivers-0>.

2.7.2 DAVIS-BACON WAGE REQUIREMENT

The statute requires borrowers receiving WIFIA credit assistance to pay all laborers and mechanics employed by contractors or subcontractors wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor.²⁰ This is commonly referred to as the Davis-Bacon wage requirement. This requirement applies to all laborers and mechanics working on a project, not only those paid from WIFIA credit assistance. Further guidance can be found on the Department of Labor's website at: <https://www.dol.gov/whd/govcontracts/dbra.htm>.

2.7.3 NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Each proposed WIFIA project must be assessed for its impact on the environment under the guidelines set forth by the National Environmental Policy Act of 1969 (NEPA).²¹ EPA will not issue a term sheet or obligate funds for a project until a final agency decision has been issued, such as a Categorical Exclusion (CATEX), Environmental Assessment (EA) and a Finding of No Significant Impact (FONSI), or an Environmental Impact Statement (EIS), including (if necessary), a Record of Decision (ROD).

The prospective borrower must provide information to the WIFIA program about the project and its potential environmental effects. The program and the prospective borrower will discuss the scope of information to be provided to the program, much of which will be included in the letter of interest or application. This information may include the project description and potential environmental impacts of the proposed project, its purpose and need, project details and design, and costs.

EPA is responsible for the NEPA review. In carrying out its responsibilities, EPA will take the following actions:

- Review the information submitted by the prospective borrower.
- Determine the adequacy of the information submitted for making a decision on the appropriate level of environmental review under NEPA.
- Prepare the appropriate environmental review document (CATEX determination, EA, or EIS) or review and adopt environmental review documents (Draft EA) prepared by the prospective borrower or a third-party contractor and ensure its accuracy.
- If necessary, issue a preliminary FONSI or draft/final EIS and take public comment.

²⁰ [33 U.S.C. §3909\(e\)](#)

²¹ [42 U.S.C. §4321](#)

- If necessary, complete the NEPA process through preparation of the appropriate decision-making document such as a final FONSI, EIS, or ROD.

Categorical Exclusion: The prospective borrower should review EPA’s list of actions that may be categorically excluded at [40 C.F.R. § 6.204](#) to determine if the project fits within an established CATEX. A prospective borrower who concludes that the project may qualify for a CATEX may request a CATEX determination from EPA; or EPA may determine that a proposed project may be eligible for a CATEX during initial discussions with the prospective borrower about the proposed project. If EPA determines the project does not qualify for a CATEX, the prospective borrower will provide EPA with more detailed information on the proposed project in the form of an Environmental Information Document (EID).

Environmental Information Document: If EPA determines that the project does not qualify for a CATEX, EPA will likely ask the prospective borrower to submit an EID to EPA to provide information about the project and its potential environmental effects. The EID provides basic project information including a detailed description of the proposed project and evaluates the environmental impacts and alternatives to the proposed project. The scope and level of detail of the EID should be commensurate with the magnitude and significance of the proposed project.

It is recommended that the prospective borrower consult with EPA to obtain information on the processes to follow when preparing an EID and the information that should be included. If the prospective borrower holds one or more public meetings as part of preparing the EID, a description of the process and any additional documentation should be included in the EID. Please be aware that EPA may request additional information from the prospective borrower if insufficient information has been provided for EPA to conduct the NEPA review.

Environmental Assessment: If EPA is preparing the EA, the prospective borrower’s role in the EA process is to provide sufficient information in the EID submitted to EPA. In some cases, the prospective borrower may submit a draft EA and supporting documents in lieu of an EID. EPA may contact the prospective borrower during the EA preparation process to request additional information on the project or its potential impacts. If the EA results in a FONSI, the prospective borrower may also be asked to assist EPA in conducting any public review process. The prospective borrower should consult with EPA for the exact processes to follow.

Environmental Impact Statement: If the prospective borrower’s proposed project requires an EIS, EPA has the primary responsibility for preparing the document. EPA may enter into a third-party agreement with the prospective borrower to hire a consulting firm to prepare the EIS. As the project’s proponent, the prospective borrower may be asked to assist EPA (e.g., by providing project information, assisting with public meetings or hearings, and helping to respond to comments that require project changes). After the EIS is complete, EPA will make a decision on the action it will take and formalize it in a ROD.

2.7.4 FLOOD PLAIN MANAGEMENT, EXECUTIVE ORDER 11988 AS AMENDED BY EXECUTIVE ORDER 13690

In order to help ensure enhanced resiliency of federally funded projects against flood, and to ensure that those projects do not exacerbate flood risk upstream, downstream, to adjacent properties, or to populations relying on facility services, projects funded by WIFIA credit assistance will meet or exceed applicable State, local, Tribal, and Territorial standards for flood risk and floodplain management, as well

as Executive Orders 11988 and 13690, the Federal Flood Risk Management Standard, and the Guidelines for Implementing Executive Order 11988, Floodplain Management, and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input (Guidelines)²².

Prospective borrowers for proposed projects not involving new construction, substantial improvement, or to address substantial damage will be required to identify whether they are located in the floodplain. Prospective borrowers may make this determination by using, at minimum, the base 100-year floodplain standard for non-critical actions, and the 0.2%-annual chance floodplain for critical actions. Projects involving new construction, substantial improvement, or to address substantial damage to structures and facilities will use the expanded floodplain standard described in E.O. 13690. Substantial improvement and substantial damage include projects equaling or exceeding 50 percent of the value of the structure or facility. These project applicants shall determine whether the proposed project will occur in the floodplain using any of the approaches provided in Section 6(c) of Executive Order 11988, as amended.

The prospective borrower shall establish the floodplain for projects involving new construction, substantial improvement, or to address substantial damage to structures and facilities using any of the following approaches:

- Climate-Informed Science Approach (CISA): Utilizing the best-available, actionable hydrologic and hydraulic data and methods that integrate current and future changes in flooding based on climate science.
- Freeboard Value Approach (FVA): Freeboard (base flood elevation + 3 feet for critical actions).
- 0.2 percent annual chance Flood Approach (0.2PFA): 0.2 percent annual chance flood (also known as the 500-year flood).
- The elevation and flood hazard area that result from using any other method identified in an update to the Federal Flood Risk Management Standard (FFRMS).

Each of the approaches is described in further detail in the Guidelines.

Projects funded under WIFIA will be considered to be Critical Actions, for purposes of review under E.O. 11988, as amended, unless the Administrator provides written notification that the project is not considered to be a Critical Action. Critical Action is defined in E.O. 11988, as amended, to include any activity for which even a slight chance of flooding is too great. The approaches for determining a floodplain in the FFRMS specify a higher level of resilience for Critical Actions based on the approach used. The concept of Critical Action reflects a concern that the impacts of flooding on human safety, health, and welfare for many activities could not be minimized unless a higher degree of protection or resilience than that delivered by the base flood elevation was provided.

²² “Guidelines for Implementing Executive Order 11988, Floodplain Management, and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input,” 80 Fed. Reg. 64008 (Oct. 22, 2015), available at <http://www.fema.gov/media-library/assets/documents/110377>.

In light of the high loss potential and the likelihood of significant adverse effects to floodplain values, the Administrator will not allow WIFIA funding for new construction or substantial improvement or to address substantial damage to a structure or facility sited in or encroaching on a Floodway or a Coastal High Hazard Area/V-Zone, except for a functionally dependent use or facility that facilitates an open space use. A functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water (e.g., desalination plant). The Administrator will make the determination of whether a proposed project is a functionally dependent use or a structure or facility that facilitates an open space use. For these projects, prospective borrowers must follow the eight-step decision-making process, determine that the project is not feasible without encroaching on the Floodway or Coastal High Hazard Area / V Zone, and provide evidence of community elected official engagement and support for the proposed project. Applications for projects sited in or encroaching on a Floodway or a Coastal High Hazard Area/ V-Zone will include engineering plans demonstrating that the facility will be accessible and operational to the elevation of the applicable level, including elevation or floodproofing of buildings, electronics and mechanical components. The Administrator will not allow construction of a new or substantially improved structure or to address substantial damage to a structure or facility sited in or encroaching on a Floodway or Coastal High Hazard Area / V-Zone unless it is elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the applicable flood level (including wave height). Regarding elevation of structures, there will be no new construction or substantial improvement of structures unless the lowest floor of the structure (including the basement) is at or above the applicable flood level.

All proposed projects will follow the eight-step decision-making process summarized below and discussed in more detail in the Guidelines. Here is a link to the guidelines: <http://www.fema.gov/media-library/assets/documents/110377>.

1. The first step of the decision process is to determine if a project is located in a floodplain – the vertical flood elevation and corresponding horizontal extent of the floodplain will depend on whether the action is a federally funded project and whether the action is critical. If the proposed action is not in a floodplain, proceed to Step 4.
2. The prospective borrower must make public its intent to locate a proposed action in a floodplain. This notice must provide a description of the proposed action with ample lead time for meaningful input from the public and other entities.
3. If the action is in a floodplain, the third step is to identify and evaluate practicable alternatives. This determination requires the prospective borrower to consider whether a floodplain can be avoided either through alternative siting outside of the floodplain; through alternate actions which would perform the intended function but would minimize harm to or within a floodplain; or by taking no action.
4. For the proposed alternative, the prospective borrower must identify if the action has impacts in a floodplain or directly or indirectly supports floodplain development that has additional impacts. If the proposed action is outside a floodplain and has no identifiable impacts and does not support direct or indirect development, the action can be implemented and the agency can proceed to Step 8.

5. If the proposed action has identifiable impacts or supports direct or indirect floodplain development, these effects must be minimized. Further, natural and beneficial floodplain values must be restored and preserved.
6. The proposed alternative can now be reevaluated taking into account the identified impacts, the steps necessary to minimize these impacts and opportunities to restore and preserve floodplain values. In a floodplain: if this reevaluation shows that the proposed action is no longer feasible, consider limiting the action to make a non-floodplain site practicable or taking no action. Outside the floodplain: if the action has impacts or support, consider modifying or relocating the action to eliminate or reduce these effects or taking no action.
7. If the prospective borrower finds that the only practicable alternative is locating in a floodplain, public notice of the reasons must be given for this finding (including the alternatives considered).
8. After a reasonable period to allow for public response, the proposed action can be implemented.

SECTION 3

3.0 TERMS AND CONDITIONS OF WIFIA CREDIT ASSISTANCE

To meet its mission, the WIFIA program can structure WIFIA credit instruments to provide low cost, long-term, supplemental credit assistance under customized terms to qualified projects. To access these benefits, credit assistance must comply with all statutory terms and conditions and programmatic credit policies. The statute authorizes the WIFIA program to provide both secured loans and loan guarantees. A secured loan is disbursed by and repaid to the federal government. A loan guarantee is a pledge by the Administrator to pay all or part of the principal of and accrued interest on a loan or other debt obligation issued by a borrower and funded by a lender.

This section summarizes the terms and conditions that apply to WIFIA secured loans, including those required by the statute and by credit policies established by the WIFIA program.²³ These terms and conditions support the requirement that projects must be deemed creditworthy by the Administrator to be eligible for WIFIA credit assistance.

3.1 STATUTORY TERMS AND CONDITIONS

The statute mandates several terms and conditions for WIFIA credit assistance. These requirements represent threshold inputs to the development of a finance plan and are as follows:

- **Maximum Amount:** The amount of WIFIA credit assistance may not exceed 49% of the reasonably anticipated eligible project costs, as defined in Section 2.6.^{24,25} WIFIA credit assistance may not exceed the amount of the project's senior obligations unless the WIFIA credit instrument receives an investment-grade rating from a Nationally Recognized Statistical Rating Organization (NRSRO).²⁶

²³ The WIFIA program does not anticipate immediate demand for the loan guarantee instrument based on experience from comparable government credit programs. Information about loan guarantee terms will be added in a subsequent version of the handbook. Prospective borrowers interested in a loan guarantee should contact the WIFIA program for additional information.

²⁴ [33 U.S.C. §3908\(b\)\(2\)\(A\)](#)

²⁵ The statute authorizes EPA to use up to 25% of its budget authority appropriated through Fiscal Year 2019 to provide credit assistance to one or more projects of up to 80% of the total costs of any given project. EPA will use this authority only in extraordinarily exceptional circumstances, such as where a project would be unable to proceed to closing absent such additional assistance due to unforeseen events. Unforeseen events that could prevent a project from going to closure may include, but are not limited to: unexpected cost revisions, unexpected loss of other sources of financing, increased cost of capital, or acts of nature. In such an event, EPA will reexamine the creditworthiness of the project and only provide funding if the project can still meet all requirements of the program. **EPA will not entertain requests for use of this authority in a letter of interest or application.**

²⁶ [33 U.S.C. §3908\(b\)\(2\)\(B\)](#)

- **Maximum Federal Involvement:** Total federal assistance for any project may not exceed 80% of total project costs.²⁷
- **Interest Rate:** The WIFIA program offers fixed-rate credit instruments. The interest rate of the WIFIA credit instrument will be no less than the yield on U.S. Treasury securities of a similar maturity to that of the WIFIA credit assistance on the date of execution of the credit agreement.²⁸ To establish the interest rate on the date of the loan closing, the WIFIA program will identify the Treasury rates through use of the daily rate tables published by the Bureau of the Public Debt for State and Local Government Series (SLGS) investments. The WIFIA program will estimate the yield on comparable Treasury securities by adding one basis point to the SLGS daily rate with a maturity that is closest to the weighted average loan life of the WIFIA credit assistance, measured from first disbursement.²⁹
- **Maturity Date:** The final maturity date of the WIFIA credit instrument must be the earlier of 35 years after the date of substantial completion of the relevant project, or the useful life of the project (as determined by the Administrator).³⁰ If the borrower is a state infrastructure financing authority, the final maturity date of WIFIA credit assistance must be no later than 35 years after the first disbursement of funds.
- **Debt Service Payment Terms:** Scheduled payments on the WIFIA credit instrument must commence no later than five (5) years following substantial completion of the project.³¹ The debt service payment schedule may be sculpted to accommodate, as appropriate, the projected cash flow from project revenues and other sources. If the borrower is a state infrastructure financing authority, scheduled payments shall commence no later than five (5) years after the date of the first disbursement.
- **Dedicated Source of Repayment:** WIFIA credit assistance must be repaid using a dedicated source of repayment or security pledge that is the same in all material respects as the security pledged to the project's senior obligations.³² The WIFIA program interprets "dedicated revenue sources" to include such levies as taxes, rate revenue, transfers pledged from state or local governments, dedicated taxes, a municipal general obligation pledge, revenues that are pledged for the purpose of retiring debt on the project, and general recourse corporate undertakings.
- **Deferrals:** Debt service payments on the WIFIA credit instrument, in accordance with the debt service payment schedule, may be deferred on a case-by-case basis at the sole discretion of the Administrator. The Administrator may grant a deferral only if there remains a reasonable

²⁷ The maximum federal involvement does not apply to certain rural water projects that are authorized to be carried out by the Secretary of the Interior, include federally-recognized Indian tribes among the beneficiaries and for which the authorized Federal share of the total project costs is greater than 80%. [33 U.S.C. §3908\(b\)\(9\)\(B\)](#).

²⁸ [33 U.S.C. §3908\(b\)\(4\)](#)

²⁹ The SLGS tables can be found online at <https://www.treasurydirect.gov/GA-SL/SLGS/selectSLGSDate.htm>.

³⁰ [33 U.S.C. §3908\(b\)\(5\)\(A\)](#)

³¹ [33 U.S.C. §3908\(c\)\(2\)](#)

³² [33 U.S.C. §3908\(b\)\(3\)\(A\)](#)

assurance of repayment of the WIFIA credit instrument, and if the final maturity of the WIFIA credit instrument remains unchanged. Under a deferral, any unpaid principal and interest will be added to the outstanding balance of the WIFIA credit instrument.

- **Security Features:** WIFIA credit assistance shall include a rate covenant, coverage requirement, or similar security feature supporting the project obligations.³³
- **Prepayment Conditions:** A borrower may prepay WIFIA credit assistance in whole or in part without penalty at any time.³⁴ WIFIA credit assistance may not be prepaid using federal funds.
- **Lien Priority:** WIFIA credit assistance may be junior (i.e., subordinate) to the project's other debt obligations in the priority of its lien on the project's cash flow. However, in the event of bankruptcy, insolvency, or liquidation, the WIFIA credit instrument will have a parity lien with respect to the project's senior creditors. This provision will be implemented by way of incorporation into the WIFIA credit agreement and any other appropriate financing agreements entered into at the time of execution of the WIFIA credit agreement.
- **Fees:** All WIFIA credit assistance may be subject to fees, as described in Appendix D, to cover all or a portion of EPA's costs associated with providing credit assistance.
- **Non-Federal Share:** The proceeds of a secured loan under this section may be used to pay any non-federal share of project costs required if the loan is repayable from non-federal funds.

3.2 CREDIT POLICIES

The Administrator must deem a project creditworthy in order for it to be eligible for WIFIA credit assistance. In support of this requirement, the WIFIA program has established credit policies. These policies influence the structuring of project financing plans and guide the WIFIA program's creditworthiness determination. The credit policies are as follows:

- **Disbursement Timing:** The WIFIA program will disburse proceeds of the WIFIA credit instrument to reimburse eligible project costs incurred based on submitted invoices and receipts.
- **Credit Rating Opinions:** Credit ratings from NRSROs will supplement but not supplant the WIFIA program's evaluation and determination of creditworthiness.
- **Federal Appropriations:** The WIFIA program will not consider proposals for financial assistance from prospective borrowers whose creditworthiness is significantly dependent on future federal appropriations.
- **Interest Capitalization:** WIFIA credit assistance may capitalize interest as warranted by the cash flow profile of the project. However, the WIFIA program will not increase its investment in a project by capitalizing interest when other project creditors are withdrawing their investment through principal amortization.

³³ [33 U.S.C. §3908\(b\)\(3\)\(B\)](#)

³⁴ [33 U.S.C. §3908\(c\)\(4\)\(B\)](#)

- **Amortization Requirement:** The WIFIA program shall seek to amortize the WIFIA credit instrument over the useful life of the project. In addition, the WIFIA program will require borrowers to prepay WIFIA credit instruments with excess revenues, refinancing proceeds, or trapped cash flow, as appropriate.
- **Distributions to Equity Holders:** The WIFIA program will require equity investors, who will be subordinate to the WIFIA credit instrument, to maintain a material equity interest in the project through final maturity of the WIFIA credit instrument. Accordingly, the WIFIA credit agreement will not permit any distribution to equity holders unless all payments on the WIFIA credit instrument are current. Additionally, the WIFIA program will look to other measures to ensure that the government does not hold a disproportionate or adverse share of the long-term project risk.
- **Variable Rate Interest Exposure:** The WIFIA credit instrument shall not be exposed to material amounts of variable rate debt in the borrower's financing structure.
- **Additional Debt:** If the financial plan contemplates future additional indebtedness, the Administrator, at his/her sole discretion, may agree in advance to additional debt, provided that such issuance does not weaken the creditworthiness of the WIFIA credit instrument as determined by the Administrator.
- **Useful Life of Projects:** In determining the useful life of a project, the Administrator will consider the operational life of the asset(s) being financed, the capability of the project to generate cash flow over time, the certainty of project cash flows over time, and other existing and potential demands on project cash flows over the term of the WIFIA credit instrument.

SECTION 4

4.0 APPLICATION PROCESS SUMMARY

This section provides an overview of the application and approval process. EPA’s review of projects can be categorized into three phases as illustrated in Figure 2.

FIGURE 2: WIFIA PROGRAM APPLICATION PROCESS

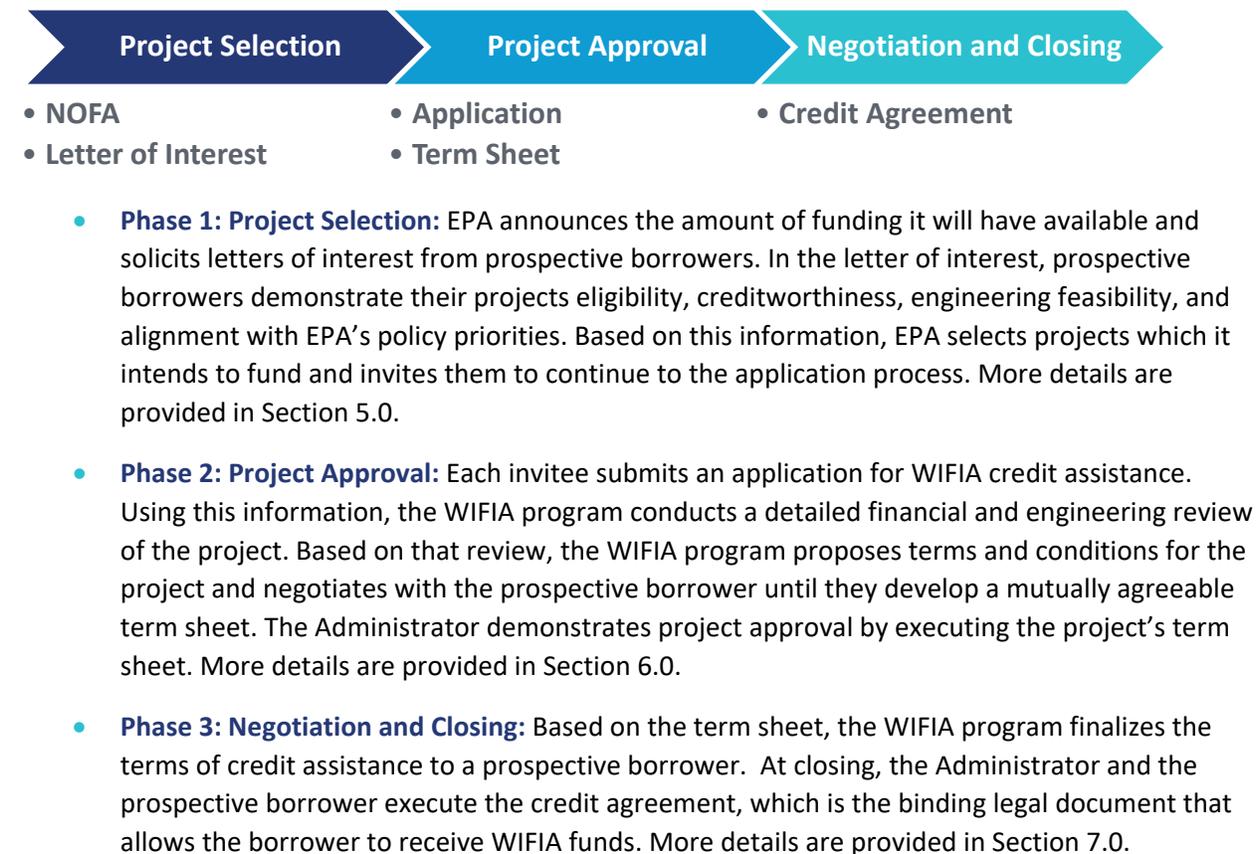


Table 1 describes the steps that are undertaken during each phase of the application process. Section 5.0 through Section 7.0 of this handbook describe each of the three phases in greater detail.

During the WIFIA credit assistance selection and approval process, the WIFIA program interacts with entities both within and outside EPA. These entities are listed in Figure 3 and described below.

TABLE 1: WIFIA PROGRAM APPLICATION PROCESS

Phase	Step	Responsible Party
Project Selection	Notice of Funding Availability (NOFA)	
	Submit NOFA to Federal Register	Administrator
	Letter of Interest Submission	
	Prepare the letter of interest and submit it to the WIFIA program	Prospective borrower

Phase	Step	Responsible Party
	Letter of Interest Evaluation Confirm eligibility of projects and prospective borrowers, perform preliminary creditworthiness evaluation, determine project feasibility, and evaluate project against selection criteria	WIFIA program with Technical Review Panel and other EPA staff support
	Project Selection Select eligible projects to invite to submit applications based on letters of interest	Selection Committee
	Invite prospective borrowers to submit an application	WIFIA program
Project Approval	Application Submission Prepare and submit the application, including a preliminary rating opinion letter and the application fee, and present the project to the WIFIA program	Prospective borrower
	Application Evaluation Evaluate and determine creditworthiness of the applications Develop mutually agreed-upon terms and conditions for WIFIA credit assistance	WIFIA program WIFIA program and prospective borrower
	Project Recommendations Prepare and present a recommendation for the project to the Credit Review Board	WIFIA program
	Prepare and present a recommendation for the project to the Credit Council	Credit Review Board and WIFIA program
	Review and approve credit subsidy estimation	OMB
	Prepare and present a recommendation for the project to the Administrator	Credit Council and WIFIA program
	WIFIA Credit Assistance Approval Decide on the approval of the project, execute the term sheet, and authorize the subsequent negotiation of a credit agreement	Administrator
Inform the prospective borrower of the Administrator's decision, and provide term sheet and closing date	WIFIA program	
Negotiation and Closing	Closing Activities Negotiate and draft the final credit agreement with the prospective borrower	WIFIA program
	Demonstrate fulfillment of conditions precedent to closing.	Prospective borrower
	Execute credit agreement	Administrator and prospective borrower

*Actual durations will vary depending on individual projects.

FIGURE 3: WIFIA PROGRAM PROJECT SELECTION AND APPROVAL ENTITIES

Administrator	<ul style="list-style-type: none"> • Approves applications for WIFIA credit assistance • Executes credit agreement
OMB	<ul style="list-style-type: none"> • Approves credit subsidy estimates and gives EPA authority to commit resources
Credit Council	<ul style="list-style-type: none"> • Recommends projects for approval to the Administrator
Credit Review Board	<ul style="list-style-type: none"> • Reviews creditworthiness determination of projects
Selection Committee	<ul style="list-style-type: none"> • Selects projects to invite to submit applications
Technical Review Panel	<ul style="list-style-type: none"> • Evaluates projects based on their letters of interest • Scores projects based on WIFIA's selection criteria
WIFIA Program	<ul style="list-style-type: none"> • Manages the loan review process • Evaluates the creditworthiness and feasibility of projects • Negotiates credit agreements

- The **EPA Administrator** grants final approval of applications for WIFIA credit assistance and executes the credit agreement at closing. The Administrator sets policy and priorities for EPA and for the WIFIA program.
- The **Office of Management and Budget (OMB)** reviews and approves the final credit subsidy cost before the Administrator can approve any application for WIFIA credit assistance. In addition, OMB gives EPA the authority to commit resources via an apportionment.
- A **Credit Council** provides policy direction to the WIFIA program and makes recommendations to the Administrator on the approval of projects for WIFIA credit assistance.
- A **Credit Review Board** serves in an advisory capacity to EPA. It reviews the findings of the WIFIA program, and advises the Credit Council regarding the creditworthiness of applications. It also advises the Program Director and approves the WIFIA program's credit policies, which influence the terms and conditions offered for WIFIA credit assistance.

- A **Selection Committee** chooses projects to invite to submit applications for WIFIA credit assistance. Senior Office of Water managers, including representatives from both the Office of Wastewater Management and the Office of Ground Water and Drinking Water, serve on the selection committee.
- A **Technical Review Panel** evaluates how well the prospective projects align with WIFIA's selection criteria based on the information provided in the letter of interest and how well it aligns with WIFIA's selection criteria.
- The **WIFIA Program** manages the loan review process and is responsible for evaluation of each project's creditworthiness and engineering feasibility. The WIFIA program also negotiates the terms of credit assistance to ensure that the government's interest is protected.

SECTION 5

5.0 PROJECT SELECTION

This section describes the first phase of the WIFIA program application process, which includes the release of the Notice of Funding Availability (NOFA), the submission of letters of interest, the evaluation of letters of interest, and the selection of projects to invite to apply.

Due to the competitive nature of project selection, prospective borrowers should submit all inquiries in writing to wifia@epa.gov during this phase of the application process. In addition to answering the prospective borrower directly, the WIFIA program will compile the questions and their responses into a frequently asked questions (FAQ) document posted on its website.



5.1 NOTICE OF FUNDING AVAILABILITY

The initial phase commences with the issuance of a NOFA. A NOFA notifies the public that new funding is available, typically after funds are appropriated by Congress, and EPA is ready to accept letters of interest from prospective borrowers. EPA will publish the NOFA in the Federal Register and on the WIFIA program website. Each NOFA will specify the amount of funding available to support WIFIA credit assistance, EPA's priorities for the funding round(s), and the weight given to each selection criterion. EPA may also include in the NOFA additional eligibility requirements, set-asides, or priorities as mandated by the appropriating legislation.

EPA may announce multiple selection rounds in a single NOFA. For each selection round, the NOFA will identify a deadline by which letters of interest must be submitted to be considered for funding in that selection round.

5.2 LETTER OF INTEREST SUBMISSION

Prospective borrowers must submit a letter of interest by the deadline articulated in the NOFA to be considered for WIFIA credit assistance in a selection round.

In the letter of interest, prospective borrowers provide the WIFIA program with sufficient information to: (i) validate the eligibility of the prospective borrower and the proposed project, (ii) perform a preliminary creditworthiness assessment, (iii) perform a preliminary engineering feasibility analysis, and (iv) supply the WIFIA program with information to evaluate the project against the selection criteria defined in the NOFA.

5.2.1 COMPONENTS

The letter of interest contains the following eight (8) sections:

1. **Prospective Borrower Information:** In this section, the prospective borrower provides basic information such as its legal name, address, website, Dun and Bradstreet Data Universal Number System (DUNS) number, and employer/taxpayer identification number. In addition, it describes the project's organizational structure, and readiness to proceed. As part of the description of its financial condition, the prospective borrower should include the year-end audited financial statements for the past three years, as available.

If the project will be undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, or a tribal government or consortium of tribal governments, the prospective borrower must demonstrate public sponsorship for the project. Public sponsorship means that the prospective borrower can demonstrate, to the satisfaction of the EPA, that it has consulted with the affected State, local, or tribal government in which the project is located, or is otherwise affected by the project and that such government supports the proposed project. A prospective borrower can show support by including a certified letter signed by the approving municipal department or similar agency, mayor or other similar designated authority, local ordinance, or any other means by which local government approval can be evidenced.

2. **Project Plan:** The prospective borrower provides a general description of the project, including its location, population served, purpose, design features, project delivery method, and development schedule. In addition, it includes other relevant information that could affect the development of the project, such as community support, pending legislation, litigation, and permitting. Also, the prospective borrower submits project documents including preliminary engineering analysis, project plans and specifications, project schedule, and a system master plan, as available.
3. **Project Operations and Maintenance Plan:** The prospective borrower describes its plan for operating, maintaining, and repairing the project post-completion, discusses the sources of revenue used to finance these activities, and provides an estimate of the economic useful life of the project.
4. **Financing Plan:** The prospective borrower details the proposed sources and uses of funds for the project and states the type and amount of credit assistance it is seeking from the WIFIA program. The discussion of proposed financing should identify the source(s) of revenue or other security that would be pledged to the WIFIA assistance. Additionally, the prospective borrower describes the credit characteristics of the project and how the senior obligations of the project will achieve an investment-grade rating as well as the anticipated rating on the WIFIA instrument. It also includes a financial pro forma which shall consist of a financial summary of the project's projected financial performance through final maturity of the WIFIA credit instrument, including a projected annual income statement, balance sheet, statement of cash flows and project debt amortization schedule. The financial summary must be provided at a detail sufficient to evaluate the repayment of the WIFIA credit instrument and calculated credit metrics (e.g., debt service coverage). The WIFIA program must be able to validate the submitted materials, which it will use to evaluate creditworthiness.

5. **Selection Criteria:** The prospective borrower describes the potential policy benefits achieved through the use of WIFIA assistance with respect to each of the WIFIA program selection criteria. These criteria and their weights are enumerated in the NOFA. Appendix C of the handbook also contains a detailed discussion of the selection criteria.
6. **Contact Information:** The prospective borrower identifies the point of contact with whom the WIFIA program should communicate regarding the letter of interest. For the purpose of completing its evaluation, WIFIA program staff may contact a prospective borrower regarding specific information in the letter of interest.
7. **Certifications:** The prospective borrower certifies that it will abide by all applicable laws and regulations, including NEPA, the Federal Water Pollution Control Act, the American Iron and Steel requirements, and Federal labor standards, among others if selected to receive funding.
8. **SRF Notification:** The prospective borrower acknowledges that EPA will notify the State infrastructure financing authority in the State in which the project is located that it submitted a letter of interest and provide the submitted letter of interest and source documents to that authority. The prospective borrower may opt out of having its letter of interest and source documents shared.

Prospective borrowers should use the template provided on the WIFIA website to prepare the letter of interest. In cases where there are differences between the guidance in this document and the guidance on the electronic form, the latter should dictate the prospective borrower's response.

5.3 LETTER OF INTEREST SUBMISSION

Prospective borrowers should submit letters of interest electronically to wifia@epa.gov by midnight in their respective time zone on the date of the deadline stated in the NOFA. If needed, electronic files on a USB drive or CD can be provided via express mail or courier delivery service to the attention of:

Director, WIFIA Program
 US EPA William Jefferson Clinton West Building-room 6210 A
 1301 Constitution Ave, NW
 Washington, DC 20004

5.4 LETTER OF INTEREST EVALUATION

The WIFIA program will select projects to be invited to apply based on submitted letters of interest. EPA will only select projects which are reasonably anticipated to be able to meet the eligibility requirements and for which the WIFIA program has sufficient budget authority. This helps to ensure the potential borrowers do not expend time and financial resources, including incurring fees associated with submitting an application, for a project that is not likely to proceed to financial close.

EPA will assess letters of interest by performing an eligibility screening, a preliminary creditworthiness assessment, a preliminary engineering feasibility analysis, and an evaluation of the selection criteria.

5.4.1 ELIGIBILITY SCREENING

Upon receipt of a letter of interest, the WIFIA program will verify that the letter of interest is complete, and validate that the prospective borrower is an eligible entity as described Section 2.1 and the proposed project is an eligible project as described in Section 2.2.

5.4.2 PRELIMINARY CREDITWORTHINESS ASSESSMENT

Following the determination of eligibility, the WIFIA program will perform a preliminary creditworthiness assessment. The preliminary creditworthiness assessment has two purposes:

- To evaluate whether the credit assistance requested by the prospective borrower has reasonable assurance of repayment.
- To estimate the amount of budget authority necessary to fund such WIFIA credit assistance.

If the WIFIA program finds that the credit assistance that the prospective borrower requested does not support a determination of creditworthiness, the project will be considered ineligible for WIFIA credit assistance. Prospective borrowers are encouraged to provide the WIFIA program with as much information about the proposed credit request as possible in response to the letter of interest and through attachments. Whenever possible, the prospective borrower should include existing credit ratings on the proposed source of repayment. The WIFIA program will use this information to determine historic financial performance (for established entities) as well as the strength of the proposed revenue pledge by evaluating revenue and expense projections including coverage ratios and growth trends.

5.4.3 PRELIMINARY FEASIBILITY ANALYSIS

The WIFIA program will perform a preliminary engineering review to evaluate whether the project is technically feasible based on the information submitted with the letter of interest. The purpose of this review is not to provide input on project design but to ensure the project can be completed on time and within budget. The WIFIA program will evaluate the reasonableness of the project development schedule, environmental review, cost estimates, and operations and maintenance plan. While additional supporting materials such as alternatives analysis or master plans are not required, the prospective borrower can make a stronger case for a well thought out, documented, and prioritized project by providing the WIFIA program with such information.

5.4.4 SELECTION CRITERIA

The statute requires that the WIFIA program evaluate projects using selection criteria. The statute establishes the first eleven (11) criteria, to which the [implementation rule](#) adds two (2) additional criteria. The WIFIA program evaluates the criteria as described in Appendix C. The WIFIA program selection criteria are as follows:

1. The extent to which the project is nationally or regionally significant, with respect to the generation of economic and public health benefits.
2. The likelihood that WIFIA credit assistance would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

3. The extent to which the project uses new or innovative approaches such as the use of energy efficient parts and systems, or the use of renewable or alternate sources of energy; green infrastructure; and the development of alternate sources of drinking water through desalination, aquifer recharge or water recycling.
4. The extent to which the project protects against extreme weather events, such as floods or hurricanes, as well as the impacts of climate change.
5. The extent to which the project helps maintain or protect the environment or public health.
6. The extent to which a project serves regions with significant energy exploration, development, or production areas.
7. The extent to which a project serves regions with significant water resource challenges, including the need to address water quality concerns in areas of regional, national, or international significance; water quantity concerns related to groundwater, surface water, or other resources; significant flood risk; water resource challenges identified in existing regional, state, or multistate agreements; and water resources with exceptional recreational value or ecological importance.
8. The extent to which the project addresses identified municipal, state, or regional priorities;
9. The readiness of the project to proceed toward development, including a demonstration by the prospective borrower that there is a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which WIFIA credit assistance is obligated for the project.
10. The extent to which the project financing plan includes public or private financing in addition to WIFIA credit assistance.
11. The extent to which WIFIA credit assistance reduces the contribution of federal assistance to the project.
12. The extent to which the project addresses needs for repair, rehabilitation or replacement of a treatment works, community water system, or aging water distribution or wastewater collection system.
13. The extent to which the project serves economically stressed communities, or pockets of economically stressed rate payers within otherwise non-economically stressed communities.

5.5 PROJECT SELECTION

Once all letters of interest for a selection round have been evaluated, the Selection Committee will select which prospective borrowers to invite to apply. The Selection Committee will choose projects from the pool of active letters of interest received before the selection round due date. The Selection Committee will consider the selection criteria scoring, preliminary engineering feasibility findings, the preliminary creditworthiness assessment, and the amount of budget authority necessary to provide WIFIA credit assistance, as required by statute. The Selection Committee will also consider the diversity

of project types and geography within the portfolio.³⁵ There is no threshold score that must be achieved in order to be selected. Rather, the Selection Committee will weigh each of the factors outlined above in making final determinations.

The WIFIA program will provide written notification inviting prospective borrowers to submit an application for WIFIA credit assistance. In these notifications, the WIFIA program will indicate the location of the latest application materials and provide the deadline for submitting an application. This deadline will be 365 days from the date of the notification. To retain their invitation, prospective borrowers must respond to the notification within thirty business days to confirm receipt of the notification as well as their intent to submit a timely application. Prospective borrowers that are invited to apply and do not plan to submit an application for WIFIA credit assistance are asked to notify the WIFIA program immediately to allow other prospective borrowers to be invited.

An invitation to apply for WIFIA credit assistance does not guarantee EPA's approval, which remains subject to a project's continued eligibility, including creditworthiness, the successful negotiation of terms acceptable to EPA, and the availability of funds at the time at which all necessary recommendations and evaluations have been completed. However, the purpose of EPA's letter of interest review is to pre-screen prospective borrowers to the extent practicable. In doing this, it is expected that EPA will only invite projects to apply if it anticipates that those projects are able to obtain WIFIA credit assistance.

³⁵ [33 U.S.C. §3902\(a\)](#)

SECTION 6

6.0 PROJECT APPROVAL

This section describes the process by which EPA approves projects for WIFIA credit assistance. This is the second phase of the application review process. It includes a description of the steps that prospective borrowers must follow in order to submit an application for WIFIA credit assistance. It also describes the WIFIA program's detailed evaluation review and approval process, which culminates in the execution of a term sheet by the Administrator.



6.1 APPLICATION SUBMISSION

The second phase of the application review process begins when a prospective borrower who has been invited to apply for WIFIA assistance submits an application. An application must be received within 365 days of the invitation; if not, it will be considered withdrawn. EPA anticipates that prospective borrowers will need less than one year to complete applications. The WIFIA program will only review applications submitted in response to an invitation to apply. When the WIFIA program receives an application, it will provide written notification to the prospective borrower confirming receipt and will begin the evaluation process.

In the application, a prospective borrower updates information submitted in the letter of interest and provides the WIFIA program with the materials necessary to evaluate the creditworthiness of the prospective borrower and project for the proposed WIFIA credit assistance.

Applicants should submit completed applications that include all components on the application checklist. The completed application package, including both hard copy and electronic files, should be sent to the attention of:

Director, WIFIA Program
US EPA William Jefferson Clinton West Building-room 6210 A
1301 Constitution Ave, NW
Washington, DC 20004

Applicants must provide electronic files of the entire application and all exhibits on a USB drive or CD. Exhibits IX, X, and XI must be provided as editable electronic files, not in PDF or "values" format. Applicants are advised to use an express mail or courier delivery service to ensure delivery confirmation of the package. Upon receipt, EPA will provide a confirmation email.

6.1.1 COMPONENTS

The WIFIA program will evaluate only complete applications that include all required materials. The following list outlines the elements of an application; however, it is not an exhaustive list of the items that may be required of the prospective borrower, and additional items may be requested on a case-by-case basis. The application contains the following components:

- 1. Applicant Information:** The applicant provides basic information such as its legal name, project name, address, website, Dun and Bradstreet Data Universal Number System (DUNS) number, and employer/taxpayer identification number. The applicant also submits information identifying and describing its organizational history, ownership, structure, and customer base. The applicant must also describe its legal authority to apply for WIFIA credit assistance and to undertake the project, and disclose any current, threatened, or pending litigation.
- 2. Detailed Project Information:** Materials submitted under this section detail the applicant's plan for project construction, including estimated project costs, plans and specifications or procurement documents, and project schedules. The applicant provides project development reports and documents such as the plans and specifications, contractor selection materials, alternatives analysis, system engineer's report, environmental review status, the floodplain management plan, project management and compliance monitoring plan, and risk and mitigation strategies. Applicants requesting credit assistance under a non-recourse project finance structure include milestone schedules, and construction contract terms, including performance security. The prospective borrower submits an analysis of the risks that may be encountered during construction and steps that the prospective borrower will take to minimize those risks.
- 3. Operations and Maintenance Plan:** The applicant submits materials supporting its plan to operate the project after construction. The operations and maintenance plan must extend throughout the entire duration of the requested WIFIA assistance and include an estimate of the associated costs and requirements. The applicant also submits materials describing contractual arrangements that it has already made or plans to make.
- 4. Financing Plan:** The prospective borrower submits a comprehensive plan describing how the project will be financed and how financing will be repaid over the tenor of the requested WIFIA credit assistance. This includes a detailed financial model covering all periods through final maturity of the WIFIA credit assistance, the sources and seniority of other financing, a description of the dedicated sources of repayment, rate covenants, and security for the requested WIFIA credit assistance. The prospective borrower also submits a preliminary rating letter from a NRSRO indicating the possibility of the project's senior obligations obtaining an investment-grade rating. This rating on the senior debt should include an analysis of the proposed WIFIA loan and the rating letter should specify the default risk of the WIFIA instrument as well. The applicant also provides its proposed terms and conditions for the WIFIA credit assistance.
- 5. Certifications:** The prospective borrower certifies that it will abide by all applicable laws and regulations, including NEPA and the Davis-Bacon wage rules, as described in Section 3.4 and in Appendix E.

6.1.2 RATING OPINIONS

As a measure of a project's creditworthiness, WIFIA requires each prospective borrower to provide, at the time of application, a preliminary rating opinion letter from at least one NRSRO indicating that the senior obligations of the project (which may be the federal credit instrument) have the potential to achieve an investment-grade rating.³⁶ In order to be considered senior obligations, they must have a pledge that is identical to the WIFIA loan. The WIFIA program will not consider an application complete until a prospective borrower has provided a preliminary rating opinion letter. The letter should provide a preliminary rating and rating analysis of the financial strength of the overall project, inclusive of the WIFIA loan, and the default risk (i.e., without regard to recovery potential) of the project's senior debt and the WIFIA loan.

The statute also requires that prior to execution of the credit agreement, each prospective borrower provide the WIFIA program with final rating opinion letters from two NRSROs indicating that the senior obligations of the project have an investment-grade rating.³⁷

Both the preliminary rating opinion letter and the final credit rating letters must contemplate the full life of the WIFIA credit instrument in rating the project's senior debt obligations. This requirement applies to all prospective borrowers, even those with current credit ratings on other debt instruments. Neither the preliminary nor the final rating opinion letters should reflect the use of credit enhancements that do not also secure the WIFIA credit instrument. The assessment of the senior obligations' investment-grade potential should be based on the underlying ratings of the unenhanced debt obligations and the project's fundamentals. The final credit rating letters should specifically address the WIFIA instrument and specify the default risk of the WIFIA loan. If the WIFIA loan amount is greater than the project's senior obligations, or if the instruments do not share a common pledge, the WIFIA loan itself must receive an investment-grade rating from a NRSRO.

Prospective borrowers should contact the WIFIA program with any questions regarding the rating process and the requirements for preliminary and final investment-grade credit rating opinion letters on the senior obligations. The NRSROs will be able to answer questions concerning fees, timing of assessments, information requirements, and surveillance practices associated with obtaining preliminary opinion letters, credit ratings, periodic rating updates, and credit surveillance reports.

6.1.3 FEES³⁸

The WIFIA program requires each prospective borrower to reimburse the federal government for the costs of retaining expert firms, including legal, engineering, and financial advisory services needed to review its application materials, negotiate, and close the credit agreement. These fees can be financed by the WIFIA loan as eligible project costs.

³⁶ [33 U.S.C. §3907\(a\)\(1\)\(D\)\(i\)](#)

³⁷ [33 U.S.C. §3907\(a\)\(1\)\(D\)\(ii\)](#)

³⁸ The fee rule can be found at: <https://www.federalregister.gov/documents/2017/06/28/2017-13438/fees-for-water-infrastructure-project-applications-under-wifia>.

The WIFIA program will require the following fees from prospective borrowers as part of the application process. Total fees associated with the application process are estimated to be between \$400,000–\$700,000 per application. These fees will be updated in the Federal Register, as appropriate.

- **Application Fee:** For projects serving communities of less than 25,000 people, the application fee is \$25,000. For all other prospective borrowers, the application fee is \$100,000. The application fee is payable upon submission of the application, without which the application will not be evaluated. The application fee is non-refundable and is credited to the credit processing fee.
- **Credit Processing Fee:** The credit processing fee is payable upon the execution of the Credit Agreement. It reimburses EPA for costs in excess of the application fee incurred by EPA due to legal, financial, engineering, and other expert contractor services. Due to the nature of this fee, the amount is expected to vary between prospective borrowers. However, the WIFIA program estimates these costs at between \$400,000–\$700,000 per prospective borrower, a portion of which may be waived at the discretion of the WIFIA program. In the event that an application is rejected or withdrawn, the prospective borrower is still required to reimburse costs incurred to EPA.

In addition to the fees required as part of the application process, the WIFIA program may charge the following fees when deemed necessary:

- **Loan Servicing Fee:** The WIFIA program may retain outside assistance to perform loan servicing for WIFIA credit instruments, including credit accounting, collections, maintenance of documents, and financial reporting. The WIFIA program may charge borrowers an annual fee for loan servicing activities associated with each WIFIA credit instrument, which will be adjusted periodically based on inflation.
- **Extraordinary Expenses Fee:** In the event that a borrower experiences difficulty relating to technical, financial, or legal matters or other events (e.g., engineering failure or financial workouts) which require the WIFIA program to incur time or expenses beyond standard monitoring, EPA will be entitled to payment in full from the borrower of additional fees in an amount determined by the WIFIA program and of related fees and expenses of its independent consultants and outside counsel, to the extent that such fees and expenses are incurred directly by the WIFIA program and to the extent such third parties are not paid directly by the borrower.
- **Optional Supplemental Fee:** Although it is unlikely that a scenario will arise under which it would assess this fee, the WIFIA program will allow an applicant to “buy down” the budget authority required for the credit instrument. This could allow an applicant to proceed to closing in the event that sufficient budget authority is not otherwise available. This fee will only be charged upon agreement by an applicant.

6.2 APPLICATION EVALUATION

Upon receipt of a complete application, the WIFIA program will initiate its evaluation of the request for credit assistance. The WIFIA program will evaluate the feasibility of the project through engineering due

diligence and the creditworthiness of the project by assessing the project's risks and risk mitigation strategies.

The WIFIA program will retain the services of financial advisors, outside legal counsel, and engineering firms during the application evaluation through closing. Through the credit processing fee, the prospective borrower will reimburse EPA for the cost of these services that are in excess of the application fee.

6.2.1 APPLICATION INTAKE

The WIFIA program will first validate that applications submitted by prospective borrowers contain all the elements requested in the application instructions and request missing documents, as necessary. For an application to proceed to evaluation, the prospective borrower must pay the application fee and provide the preliminary rating opinion letter from a NRSRO. The WIFIA program will also confirm that the application continues to meet the eligibility requirements.

Once these screenings are complete, the WIFIA program will contact the prospective borrower to notify it that the application has been accepted.

6.2.2 ORAL PRESENTATION

After submitting its complete application, the WIFIA program will invite the prospective borrower to give an oral presentation on the proposed project, followed by a discussion. At this time, the WIFIA program will also arrange a time and location for the oral presentation and provide instructions on the structure and content of the presentation. The presentation and discussion are intended to clarify the prospective borrower's project plans, including the financing plan. The WIFIA program may use the discussion to request additional information and documents that were not part of the application submission and to resolve issues related to the submitted materials.

6.2.3 DETERMINATION OF CREDITWORTHINESS

By statute, the Administrator must determine that every project that receives a WIFIA loan is creditworthy. Therefore, an overarching goal of the creditworthiness determination process is to ensure that each project that is ultimately offered credit assistance provides a level of risk exposure that is suitable for the WIFIA program. To that end, the WIFIA program will evaluate applications for financial assistance based on prudent lending practices for the long-term holding of an illiquid asset. The Administrator will base the creditworthiness determination on a review of all of the following:

- Terms, conditions, financial structure, and security features of the proposed financing.
- Dedicated revenue source(s) securing the financing.
- Financial assumptions surrounding the proposed project.
- Financial soundness and credit history and outlook of the borrower.
- Strength of the business model and project economics.
- Technical merits and engineering risks of the proposed financing.

The following sections describe the process that will be used to assess the creditworthiness of a project in greater detail. This process involves the determination of the credit type and an assessment of key risks associated with that credit type; and an assessment of the prospective project against a general credit assessment framework.

The WIFIA program's determination of creditworthiness must be based on realistic and probable inputs. Additionally, the WIFIA program may conduct site visits as part of the determination of creditworthiness.

DETERMINATION OF CREDIT TYPE AND CREDIT INSTRUMENT ATTRIBUTES

Given the WIFIA program's ability to accommodate a number of different types of prospective borrowers and uses of funds, the determination of creditworthiness will include an assessment of each application in order to develop a clear understanding of the following:

- The prospective borrower, including its credit history and structure.
- The proposed project, including any risks that will be especially relevant.
- The source or sources of repayment.

These characterizations will allow the WIFIA program to tailor its assessment of creditworthiness based on the proposed credit instrument's specific credit attributes and the corresponding risk exposures associated with those attributes. The WIFIA program anticipates evaluating balance sheet/general recourse corporate borrowings, public financings, and non-recourse borrowing/project financings, and will conduct financial and risk analyses based on the associated criteria. The following section outlines the framework that will be used to assess each application for credit assistance.

CREDIT ASSESSMENT CRITERIA

In general, the WIFIA program will review every proposed credit instrument based on a framework that will focus on the five categories outlined below. As noted above, each project will have exposure to its own distinctive combination of risks and each application will be assessed with a focus on its specific risks. The descriptions that follow provide examples of assessment criteria, but are not meant to be an exhaustive list:

- **Financial Strength:** Each proposed use of funds will include a detailed financial plan and projection of future cash flow generation. The WIFIA program will verify that the project is expected to produce sufficient revenues to service the project's debt obligations through final maturity. Projects must demonstrate adequate liquidity and debt service coverage under the financial modeling assumptions and reasonable sensitivity cases. The WIFIA program may consider the following criteria:
 - Each proposed use of funds should be financially sound and offer a projection of revenue generation based upon reasonable assumptions that would provide sufficient coverage to repay the proposed credit instrument.
 - By statute, the credit instrument must be repayable in whole or in part from a dedicated source.

- The capital structure for a project receiving WIFIA credit assistance should provide sufficient cushion to insulate the credit instrument from unexpected events.
- **Business/Economic Considerations:** Each type of credit will be influenced by its individual business model, the product/services delivered to customers, and the economic conditions at the site of the proposed use of funds. The WIFIA program may consider the following in the assessment of the business characteristics and the local economy:
 - The structure of the prospective borrower's business model, including an analysis of the product or service being delivered and the appropriateness of rates with respect to the income levels of the population served.
 - The predictability of the prospective borrower's revenues, which may include a review of offtake agreements, the service territory, or the franchise, as applicable.
 - The service area's resource endowments, long-term economic planning, economic growth, labor force trends, and ability to withstand economic cycles.
- **Management:** The WIFIA program will evaluate the prospective borrower and any key counterparties, such as sponsors, contractual partners, project management, and design and construction teams based on their experience, ability to work as a team, and ability to deliver upon the proposed financing. In its evaluation, it may consider the following criteria:
 - The prospective borrower and key counterparties demonstrate technical, managerial, and financial capacity to perform their respective responsibilities within the proposed use of funds.
 - All participants have sufficient assets to meet their obligations.
 - Strong management teams have a demonstrable record of success.
 - Management is capable of abiding by all relevant federal, state, and local regulations during the pre-construction and construction process, and during operation.
 - If multiple counterparties exist, parties share the balance of risk appropriately.
- **Engineering Considerations:** The WIFIA program will assess every proposed use of funds for any pre-construction risk, construction risk, and technology risk. It will examine the following criteria during this process:
 - The proposed project technology should be appropriate for its intended use.
 - Technical feasibility should be demonstrated based on detailed engineering information.
 - Per statute, the prospective borrower must have an operation and maintenance plan that reasonably accounts for the expected cost of operating and maintaining the project so that the project is fully functional over a time period equal or greater than the length of the proposed credit assistance.

- When the proposed use of funds includes major construction, the project should demonstrate protection from completion risk.
- **Loan Specific Factors:** The WIFIA program will assess each proposed credit instrument based on the proposed terms and conditions and attendant risk to the WIFIA credit instrument. It may include the following in its assessment:
 - The loan tenor, repayment profile, and lien priority of the proposed credit instrument, given the risk profile of the credit assistance.
 - The strength of the proposed security features such as reserve funds, rate covenants, and additional indebtedness restrictions.

These categories are overarching and provide a general framework for the creditworthiness assessment of every application which can be adjusted to fit the risk profile of each proposed project. Following the assessment of each application based on the overarching categories, and the more detailed analysis guided by the specific attributes of the proposed project, the WIFIA program will make an initial determination of creditworthiness.

6.2.4 ENGINEERING DUE DILIGENCE

The WIFIA program will review and comment on, as appropriate, project design plans, specifications, procurement documents and associated documents. These should be developed in accordance with professional standards and federal, state, and local requirements. In addition, the WIFIA program will review the bidding and contract documents to ensure that these documents are consistent with the WIFIA program-approved plans, specifications, scope of work, and applicable federal requirements. The WIFIA program may conduct site visits during the application process to validate that prospective borrowers are representing themselves accurately and in a manner that is consistent with their applications.

6.2.5 TERM SHEET DEVELOPMENT

The term sheet is a contractual agreement between EPA and the prospective borrower that sets forth certain business terms and conditions of WIFIA credit assistance for the project, including statutory requirements. Upon reviewing the creditworthiness of the application and completing engineering due diligence, the WIFIA program may propose terms and conditions to the prospective borrower. The prospective borrower and the WIFIA program will negotiate these terms and conditions until a mutually agreeable preliminary term sheet has been developed.

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The term sheet will include terms required for WIFIA credit assistance, which are described in the statute³⁹ and Section 3.0 of this document. The term sheet will also include additional basic terms and conditions related to EPA's provision of credit assistance that can materially influence the creditworthiness of the project. Generally, the term sheet will include terms such as:

³⁹ [33 U.S.C. §§3908](#)

- Parties to the agreement (e.g., the lender and the borrower)
- Type of credit instrument (i.e., secured loan)
- Description of the project
- Estimated total project costs and total WIFIA-eligible project costs
- Maximum amount of WIFIA credit assistance
- Method for establishing the interest rate
- Estimated final maturity date
- Source of repayment and security, including lien structure and WIFIA credit instrument priority
- Requirements to reimburse the WIFIA program for credit processing fees
- Conditions for execution of a credit agreement and disbursement
- Auditing requirements
- Covenants such as limitations on additional bonds, minimum coverage ratios, and any required reserve funds
- Projected disbursement and repayment schedule

All parties will assess the preliminary term sheet during the project recommendations step, as described below in Section 6.3. The preliminary term sheet may be modified at any point before the Administrator approves the application for WIFIA credit assistance.

6.2.6 CALCULATION OF CREDIT SUBSIDY COST

As the final step of the evaluation process, the WIFIA program will calculate the range of credit subsidy cost of the WIFIA credit assistance based on the results of the creditworthiness evaluation and the terms and conditions agreed upon by the prospective borrower and the WIFIA program. This subsidy calculation will determine the amount of budget authority that is necessary to obligate for the project. This calculation is subject to review and approval by OMB.

6.3 PROJECT RECOMMENDATIONS

Following the evaluation step, the WIFIA program will summarize its assessment of the application and provide a recommendation for approval in a report and presentation for the Credit Review Board's consideration. The Credit Review Board's role is to advise the Program Director and the Credit Council regarding the creditworthiness of the prospective borrower and whether it provides adequate assurance of timely repayment.

The Credit Council will consider the recommendations of both the Credit Review Board and the Program Director before making a recommendation to the Administrator. The Credit Council will make a recommendation to approve or deny an application for WIFIA credit assistance based on the prospective

borrower's creditworthiness and the project's conformance to the WIFIA program's federal objectives, risk appetite, and mission.

6.4 WIFIA CREDIT ASSISTANCE APPROVAL

The Credit Council will provide a recommendation to the Administrator, who retains the final authority for approval of WIFIA assistance. The Administrator approves a project by executing the term sheet developed during the evaluation process. The term sheet obligates budget authority and binds EPA and the prospective borrower to the specified terms. Nevertheless, the term sheet does not guarantee WIFIA credit assistance, and remains subject to negotiation and execution of the credit agreement.

Prior to issuing a term sheet, the WIFIA program will confirm that all prerequisites for the obligation of funds have been satisfied, including the following:

- Submission of the preliminary rating opinion letter.
- The project's receipt of its Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion under NEPA.
- Compliance with federal guidelines regarding floodplain management.
- Compliance with other federal laws, regulations and applicable planning requirements.

SECTION 7

7.0 NEGOTIATION AND CLOSING

This section describes the final phase of the application approval process – negotiation and closing – during which the WIFIA program will finalize the terms of credit assistance to an applicant. The section outlines the development of the credit agreement, negotiations, and financial close.



7.1 CREDIT AGREEMENT DEVELOPMENT

The credit agreement is the authoritative agreement between EPA and the borrower. It specifies all terms and conditions of the credit assistance and authorizes the disbursement of WIFIA credit assistance to the project.

The WIFIA program and the applicant will negotiate the specific language of the credit agreement to accurately represent WIFIA program requirements. The WIFIA program will seek to structure the final credit agreement in a way that conforms in all material respects to the terms of the term sheet. To the extent that deviations are required, the WIFIA program may need to modify the term sheet. In such circumstances, the WIFIA program would re-evaluate the project’s creditworthiness, assess the availability of additional budget authority if required, and the project would follow the same approval processes as a new application. The timeframe for developing the credit agreement is dependent on the complexity of the agreement and progress of the negotiations.

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The credit agreement will include both standard provisions and transaction-specific provisions. Depending upon the nature of the transaction, additional documents, such as an inter-creditor agreement, may also be necessary.

In addition to the contents of the term sheet, credit agreements will generally include the following:

- Security features and additional terms
- Detailed description of pledged security
- Flow of funds
- Repayment terms, including amortization schedule and final maturity
- Representations and warranties

- Borrower covenants (e.g., rate covenants)
- Annual disbursement schedule and conditions for draws
- Financial plan requirements
- Monitoring and reporting requirements

The credit agreement will also include the form of requisition for disbursements and the form of the note. Each WIFIA borrower must execute a note evidencing the requirement to repay the loan.

7.2 CLOSING

In order for the WIFIA program to execute the credit agreement and disburse funds, the applicant must satisfy at a minimum any requirements set forth in the term sheet. Also, the applicant must have two investment-grade ratings on the senior debt that include a discussion on the default risk of the WIFIA loan, as described in Section 6.1.2. If the WIFIA debt is intended to be the senior debt, it must receive two investment-grade ratings. Prior to closing a WIFIA credit agreement, the applicant must submit updates to both the financial plan and the project management and monitoring plan. The applicant must also submit for approval final project plans, specifications, and contract documents.

The WIFIA program may request to review and approve, as appropriate, all related project documents, including but not limited to design-build contracts, concession agreements, development agreements, financing agreements, and funding agreements with third parties.

The WIFIA program will schedule the closing once all of the closing documentation has been finalized and it confirms that all conditions precedent have been met. At closing, the Administrator and the applicant will execute the credit agreement, which is the binding legal document that allows the applicant to receive WIFIA funds. Upon execution of the credit agreement, the applicant, now a borrower, must pay the credit processing fee, described in Section 6.1.3. The WIFIA program will post the borrower's name under a list of borrowers on the WIFIA program's website soon after closing.

SECTION 8

8.0 POST-CLOSING ACTIVITIES AND MONITORING REQUIREMENTS

Following closing, borrowers must meet several requirements to receive funding and remain in compliance with the credit agreement. This section describes the post-closing activities involving WIFIA borrowers in three categories: disbursements, loan servicing, and loan monitoring. The executed credit agreement will identify specific requirements pertaining to each credit instrument.

8.1 DISBURSEMENTS

Prior to any disbursement, all conditions precedent to funding must be satisfied. The borrower may begin submitting eligible project costs for reimbursement following closing. In order to receive a disbursement, borrowers must submit a requisition form that will require borrowers to verify continued compliance with the credit agreement. The requisition form may include verification that the disbursement is being made against incurred eligible project costs, confirmation that there have been no changes to the project plan or any material events, and confirmation that the representations and warranties included in the credit agreement are still true and correct, among other items.

8.2 LOAN SERVICING

The WIFIA program may retain outside assistance to perform loan servicing for WIFIA credit instruments, including credit accounting, collections, maintenance of documents, and financial reporting. The WIFIA program may charge borrowers an annual fee for loan servicing activities associated with each WIFIA credit instrument, which will be adjusted periodically based on inflation.

8.3 LOAN MONITORING

EPA is required to operate the WIFIA program under a robust management and oversight structure and to monitor it in terms of programmatic goals and performance within acceptable risk thresholds. In order to accomplish these goals, the WIFIA program performs loan monitoring functions using a variety of tools at its disposal. The following subsections describe the purpose of these functions, as well as the manner in which the WIFIA program plans to implement these requirements.

8.3.1 LOAN MONITORING FUNCTIONS

The WIFIA program monitors the credit instruments in its portfolio using three key functions: credit risk monitoring, compliance management and monitoring, and program evaluation. These functions assess different borrower or program characteristics and are each an essential part of the WIFIA program's loan monitoring activities.

CREDIT RISK MONITORING

The WIFIA program monitors the credit risk of each loan within its portfolio, which enables it to quickly detect financial deterioration and changes in the credit risk of WIFIA program borrowers. By quickly

detecting deterioration in a borrower's risk profile, the WIFIA program may make informed decisions to address weaknesses and strengthen its position, or take preventative measures to minimize the risk posed to the WIFIA program. Annually, the WIFIA program must update each credit instrument's credit risk assessment and recalculate its federal subsidy costs.

COMPLIANCE MANAGEMENT AND MONITORING

The WIFIA program ensures its integrity through compliance management and monitoring. Compliance management and monitoring is the process through which the WIFIA program verifies that borrowers are abiding by the terms of the credit agreement and prevailing laws and regulations. The WIFIA program will verify that borrowers are implementing projects in a manner that is consistent with the objectives stated in their applications and supports the WIFIA program's mission. Borrowers are required to remain in compliance with federal requirements such as the American Iron and Steel statutory requirement, the Davis-Bacon wage requirement, environmental statutes and other requirements as set forth in the credit agreement. As part of compliance management, the WIFIA program will review and approve project-related documents, as appropriate. Such documents may include, but are not limited to, new or revised construction plans and specifications, start-up and performance testing plans, and operations and maintenance plans.

PROGRAM EVALUATION

Program evaluation uses measurement and analysis to answer specific questions about how well a program is achieving its outcomes and why. Program evaluation will provide a method for determining the benefits and impacts of WIFIA projects, including economic, environmental and public health benefits. The WIFIA program must perform periodic program evaluations to assess whether the WIFIA program is achieving policy goals while mitigating risk and costs to the taxpayer. As such, the WIFIA program will collect data from borrowers on an annual basis. The WIFIA program may collect data on three levels:

- **Outputs:** Goods and services delivered as a result of the WIFIA credit assistance.
- **Outcomes:** Changes or benefits resulting from outputs.
- **Impacts:** Long-term socioeconomic, environmental, and public health effects of the WIFIA program.

8.3.2 LOAN MONITORING TOOLS

PERIODIC REPORTING

The WIFIA program requires that borrowers submit financial condition reports in order to (i) provide an oversight tool for ensuring each borrower's compliance with the provisions of the credit agreement, (ii) monitor the overall status of the project and the WIFIA program, and (iii) assist it in identifying any changes to the credit risk posed to the federal government under individual credit agreements. WIFIA credit agreements will specify scheduled annual, quarterly, and project milestone reporting requirements, as well as any other periodic reporting requirements.

As part of its oversight and monitoring of WIFIA projects, the WIFIA program will routinely update its information on credit quality, construction schedules, legal issues, revenue forecasts, financial projections, and project performance. Accordingly, borrowers will be required by covenant in the WIFIA credit agreement to provide ongoing financial and project information not only during construction, but so long as the WIFIA credit instrument is outstanding and/or until the debt obligation to the federal government is fully repaid. In each credit agreement, EPA will specify the required ongoing documentation and the frequency of such information requests.

The WIFIA program’s oversight and monitoring may include periodic status meetings with the borrower, reviews by the independent engineer (if applicable) and/or other relevant reports, and site visits (described below). Additionally, all borrowers must notify the WIFIA program of material events that could affect project development or the credit quality of the project.

SITE VISITS

The WIFIA program will conduct site visits following the execution of the credit agreement. These site visits will monitor progress made by WIFIA program borrowers, including ongoing construction. Any risks or issues identified during site visits will be documented and used to update the EPA’s ongoing risk assessment of the borrower.

HEIGHTENED MONITORING

As necessary, the WIFIA program will be authorized by the credit agreement to commence increased monitoring and reporting to ensure the continued credit quality of the project and minimize the federal government’s risk. The purpose of such heightened monitoring activities will be to address problems quickly and efficiently and return the project to expected performance. Borrowers subject to such heightened monitoring requirements may be subject to additional reporting requirements, and/or expenses for consultants and fees as documented in the credit agreement.

TABLE 2: OVERSIGHT AND MONITORING DOCUMENTATION

Example of Loan Monitoring Documentation*	
Annual Financial Condition Report	<ul style="list-style-type: none"> • Audited financial statements • Updates to the project financing plans • Updated budget and cash flow projections • Sources and uses of funds • Project schedules • Operating statistics • Other significant updates • Rating opinion letter (as available)
Quarterly Financial Condition Report	<ul style="list-style-type: none"> • Key financial ratios • Financial statements • Construction progress • Significant updates • Management updates
Legislative Compliance Certifications	

Example of Loan Monitoring Documentation*
<p>Timely Updates on Material Events</p> <p>Programmatic Data</p> <ul style="list-style-type: none">• Capital Improvement Plan data

*Specific reporting requirements will be negotiated with the WIFIA program and stated explicitly in the credit agreement.

APPENDIX A: ACRONYMS

Table 3 defines acronyms that are commonly used throughout this handbook.

TABLE 3: ACRONYMS

Acronym	Definition
AIS	American Iron and Steel
CC	Credit Council
CRB	Credit Review Board
EIS	Environmental Impact Statement
EPA	United States Environmental Protection Agency
FAST	Fixing America's Surface Transportation Act of 2015
FCRA	Federal Credit Reform Act of 1990
FONSI	Finding of No Significant Impact
NEPA	National Environmental Policy Act of 1969
NOFA	Notice of Funding Availability
NRSRO	Nationally Recognized Statistical Rating Organization
OGC	Office of General Counsel
OMB	Office of Management and Budget
OW	Office of Water
P.L.	Public Law
PRA	Paperwork Reduction Act
ROD	Record of Decision
U.S.C.	United States Code
WIFIA	Water Infrastructure Finance and Innovation Act of 2014
WRRDA	Water Resources Reform and Development Act of 2014

APPENDIX B: DEFINITIONS

Table 4 defines relevant terms employed throughout this handbook.

TABLE 4: DEFINITIONS

Term	Definition
Administrator	Administrator of the U.S. Environmental Protection Agency
Applicant	An entity selected to submit an applicant for WIFIA credit assistance following selection by the WIFIA Selection Committee
Borrower	An entity that has obtained an executed credit agreement for WIFIA credit assistance
Credit Agreement	A contractual agreement between EPA and the prospective borrower (and the lender, if applicable) that formalizes the terms and conditions established in the term sheet (or conditional term sheet) and authorizes the execution of a secured loan or loan guarantee
Credit Subsidy Cost	“Cost” under §502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. § 661a(5)), which is the net present value at the time the obligation is entered into. The credit subsidy cost for a given project is calculated by EPA in consultation with OMB. The credit subsidy cost must be less than the unobligated budget authority that has been appropriated by Congress to date.
Federal Credit Instrument	A secured loan or loan guarantee authorized to be made available with respect to a project
Investment-Grade Rating	A rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations
Loan Guarantee	Any guarantee or other pledge by the Administrator to pay all or part of the principal of and interest on a loan or other debt obligation issued by a borrower and funded by a lender
Nationally Recognized Statistical Rating Organization	A credit rating agency identified and registered by the Office of Credit Ratings in the Securities and Exchange Commission under 15 U.S.C. § 78o-7
Project Obligation	Any note, bond, debenture, or other debt obligation issued by a borrower in connection with the financing of a project
Prospective Borrower	An entity that is contemplating or is in the process of undertaking the application process.
Publicly Sponsored	The prospective borrower can demonstrate, to the satisfaction of the Administrator, that the prospective borrower has consulted with the affected State, local, or tribal government in which the project is located, or is otherwise affected by the project, and that such government supports the proposed project
Secured Loan	A direct loan or other debt obligation issued by a borrower and funded by the Administrator in connection with the financing of a project
State Infrastructure Financing Authority	State entity established or designated by the Governor of a State to receive a capitalization grant provided by, or otherwise carry out the requirements of, title VI of the Federal Water Pollution Control Act (33 U.S.C. § 1381 et. seq.) or section 1452 of the Safe Drinking Water Act (42 U.S.C. § 300j-12)
Substantial Completion	The stage in the progress of the project when the project or designated portion thereof is sufficiently complete in accordance with the contract documents so that the project or a portion thereof can be used for its intended use
Term Sheet	A contractual agreement between the EPA and the prospective borrower (and the lender, if applicable) that sets forth the key business terms and conditions

Term	Definition
	of a federal credit instrument. Execution of this document represents a legal obligation of budget authority
WIFIA Credit Assistance	A secured loan or loan guarantee authorized to be made available under WIFIA

APPENDIX C: SELECTION CRITERIA

WHAT ARE THE SELECTION CRITERIA AND HOW ARE THEY USED?

The WIFIA program is required by statute to evaluate projects using selection criteria. The statute establishes eleven criteria, to which EPA, via regulation, adds two additional criteria. Each criterion is weighted based upon EPA's mission and priorities as well as factors influencing the successful implementation of the WIFIA program. Additionally, some criteria that are factors in other aspects of the selection process may receive lower weights since those components are already included in the comprehensive project review.

The WIFIA program selection criteria and respective weights are as follows:

1. The extent to which the project is nationally or regionally significant, with respect to the generation of economic and public health benefits - **10 percent**
2. The likelihood that WIFIA credit assistance would enable the project to proceed at an earlier date than the project would otherwise be able to proceed - **5 percent**
3. The extent to which the project uses new or innovative approaches such as the use of energy efficient parts and systems, or the use of renewable or alternate sources of energy; green infrastructure; the development of alternate sources of drinking water through desalination, aquifer recharge or water recycling; and the use of new or enhanced drinking water treatment technologies - **10 percent**
4. The extent to which the project protects against extreme weather events, such as floods or hurricanes, as well as the impacts of climate change - **10 percent**
5. The extent to which the project helps maintain or protect the environment or public health - **10 percent**
6. The extent to which a project serves regions with significant energy exploration, development, or production areas - **5 percent**
7. The extent to which a project serves regions with significant water resource challenges, including the need to address water quality concerns in areas of regional, national, or international significance; water quantity concerns related to groundwater, surface water, or other resources; significant flood risk; water resource challenges identified in existing regional, state, or multistate agreements; and water resources with exceptional recreational value or ecological importance - **10 percent**
8. The extent to which the project addresses identified municipal, state, or regional priorities - **5 percent**
9. The readiness of the project to proceed toward development, including a demonstration by the prospective borrower that there is a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which WIFIA credit assistance is obligated for the project - **5 percent**

10. The extent to which the project financing plan includes public or private financing in addition to WIFIA credit assistance - **5 percent**
11. The extent to which WIFIA credit assistance reduces the contribution of federal assistance to the project - **5 percent**
12. The extent to which the project addresses needs for repair, rehabilitation or replacement of a treatment works, community water system, or aging water distribution or wastewater collection system - **10 percent**
13. The extent to which the project serves economically stressed communities, or pockets of economically stressed rate payers within otherwise non-economically stressed communities - **10 percent**

As noted in Section 5.2 of the Program Handbook, prospective borrowers will first submit a letter of interest with a rationale for why a specific project meets the selection criteria above. To maintain consistency throughout the evaluation process, the criteria will receive a score on the rating scale of 1-5, 1 being the lowest. Many of the rating scales have individual descriptions for each score from 1 to 5 and some criteria have non-sequential or binary scales to simplify the scoring process to reflect that there are fewer gradation within those criteria.

The selection criteria score is one of several elements EPA will consider in choosing prospective borrowers who should submit a complete application and proceed to the next step in the WIFIA approval process. In addition to the selection criteria, EPA will take into consideration the initial estimate of the amount of budget authority required by the project, the preliminary creditworthiness assessment, and the preliminary engineering feasibility assessment. EPA will also consider geographic and project diversity when identifying which projects should be invited to submit complete applications. There is no threshold score that must be achieved in order to be selected.

HOW DO PROSPECTIVE BORROWERS ADDRESS SELECTION CRITERIA?

In Section E of the letter of interest, the prospective borrower describes the potential policy benefits to be achieved through the use of WIFIA assistance with respect to each of the selection criteria. Because the selection criteria encompass a wide range of factors, it is not expected that most projects will score highly on all of them. However, this section is where the prospective borrower gets to make its best case to EPA. Prospective borrowers are encouraged to demonstrate how their projects address the criterion, provide specific details, and, where available, include references to supporting documentation.

CRITERION 1: NATIONAL OR REGIONAL SIGNIFICANCE

EPA will evaluate the quality and extent to which the project can improve economic and public health conditions for a region or the nation. Projects can be differentiated based on their impact on each variable as well as the scope of their impact.

Prospective borrowers can demonstrate improvement to economic conditions by providing estimates of expected economic benefits such as new jobs, tax revenues, keeping or attracting new industries, increased commerce, etc. Public health benefits can include improving water quality; increasing

reliability of drinking water delivery, quality and access; reducing flood risk; protecting source water; etc. In addition, if a project encompasses the regionalization of systems to increase efficiencies and reap the benefits of economies of scale, that can be considered an improvement to both public health and economic conditions.

For purposes of this criterion, a region can consist of a service area within a municipality, portions of a municipality, multiple neighboring municipalities, a state or multiple states. In addition, for a project to impact national economic or public health benefits, the letter of interest should demonstrate how the project or components of the project can benefit regions which are not directly served by the project.

EPA will take into consideration the following when assessing letters of interest for this criterion:

- Does the project generate regional or national economic and/or public health benefits?
- Projects that have a net negative impact on economic and/ or public health conditions will be eliminated from further consideration.

CRITERION 2: ENABLES PROJECT TO PROCEED EARLIER

EPA will evaluate the likelihood that WIFIA assistance would enable the project to proceed at an earlier date than the project would otherwise be able to proceed. EPA will consider whether WIFIA funding accelerates an individual project receiving a loan or, if by providing significant savings on one project, WIFIA assistance allows a prospective borrower to accelerate additional non-WIFIA projects.

Prospective borrowers can demonstrate the effect of WIFIA funding on the project implementation schedule and/or a Capital Improvement Plan. EPA understands that a project that is nearing its construction phase may need to be delayed to incorporate federal cross-cutters and other program requirements. However, even if WIFIA delays implementation of one project, it could help accelerate other needed projects planned by the prospective borrower.

EPA will take into consideration the following when assessing letters of interest for this criterion:

- How does WIFIA funding affect the project development schedule?
- Would WIFIA funding allow the prospective borrower to implement other high priority projects sooner than anticipated?
- Without WIFIA funding, would the project be implemented?

CRITERION 3: NEW OR INNOVATIVE APPROACHES

EPA will evaluate the depth and degree of how the project uses new or innovative approaches such as, but not limited to:

- Use of renewable or alternate sources of energy.
- Use of energy efficient parts or systems for a significant portion of the project.
- Use of green infrastructure elements.

- Development of alternate sources of drinking water and alternate water supplies through aquifer recharge, water recycling or desalination.
- Development of distribution systems for recycled water.
- Development of biosolids or other renewable resources.
- Addressing emerging and yet unregulated contaminants or other water quality issues.
- Use of new or enhanced technologies that improve drinking water treatment efficacy and/or reliability.
- A novel application of an existing method or technology.

EPA will take into consideration the following when assessing letters of interest for this criterion:

- Does the project incorporate any new or innovative approaches or technologies?
- Has the new or innovative approach or technology been pilot tested?
- Has the new or innovative approach or technology been implemented at full scale levels?
- Does the project incorporate approaches or technologies that have the potential to significantly improve standard operations within the water and wastewater industries?

CRITERION 4: PROTECTION AGAINST EXTREME WEATHER EVENTS

EPA will evaluate projects on the depth and degree to which they protect against extreme weather events, such as floods or hurricanes, as well as the impacts of climate change.

Extreme weather impacts can include:

- **Drought:** Reduced groundwater recharge, lower lake and reservoir levels, changes in seasonal runoff and loss of snowpack.
- **Water Quality Degradation:** Low flow conditions and altered water quality, saltwater intrusion into aquifers, altered surface water quality;
- **Floods:** High flow events & flooding, flooding from coastal storm surges;
- **Ecosystem Changes:** Loss of coastal landforms / wetlands, increased fire risk and altered vegetation; and
- **Service Demand and Use:** Volume and temperature challenges, changes in water demand, changes in energy sector needs, changes in energy needs of utilities.

Climate change impacts can include warming temperatures, changes in precipitation and runoff, and sea level rise. Changes will vary in different regions of the United States. Potential effects include increased flooding and drought, water quality impairment, and salt water intrusion to coastal water supplies.

Examples of project elements that can protect against extreme weather events include the following:

- Mitigation planning and risk assessments

- Flood protection or mitigation
- Green infrastructure which address flooding, drought, urban heat island effects, energy demand, protection of coastal areas, etc.
- Backup power
- Emergency response plans
- Enhanced infrastructure resiliency
- Water recycling and reuse
- Managed aquifer recovery

EPA will ensure that WIFIA-funded projects include enhanced resiliency against flood, and do not exacerbate flood risk upstream, downstream, to adjacent properties, or to populations relying on facility services. WIFIA-funded projects will be required to meet applicable State, local, Tribal, and Territorial standards for flood risk and floodplain management, as well as Executive Orders 11988 and 13690, the Federal Flood Risk Management Standard, and the Guidelines for Implementing Executive Order 11988, Floodplain Management, and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input (Guidelines). Prospective borrowers are encouraged to describe how their project will meet applicable standards in their response to this selection criterion or reference where such information may be found elsewhere in their letter of interest.

EPA will take into consideration the following when assessing letters of interest for this criterion:

- Does the project address extreme weather events, such as 100-year floods or natural disasters that have occurred in the past?
- Does the project address extreme weather events, such as the 500-year flood and/or climate change impacts for at least a 20-year planning period?
- How does the project sponsor intend to meet State, local, Tribal, and Territorial standards for flood risk and floodplain management?

CRITERION 5: MAINTAIN OR PROTECT THE ENVIRONMENT OR PUBLIC HEALTH

EPA will evaluate the project on the depth and degree to which it helps maintain or protect the environment or public health.

EPA will take the following into consideration:

- How the project addresses the requirements of the Clean Water Act and the Safe Drinking Water Act and how the project improves public health levels or alleviates public health concerns.

- How the project can impact air, water, or land pollution levels in the environment if the prospective borrower provides supporting data.
- Whether a project addresses existing environmental or public health violations.
- Whether a project is intended to maintain regulatory standards in the future.

EPA will take into consideration the following when assessing letters of interest for this criterion:

- Do existing conditions meet regulatory requirements? Without implementing the project, could these conditions deteriorate?
- Does the project help significantly improve environmental or public health conditions, even if existing conditions meet regulatory requirements?
- Is the project necessary to resolve public health or environmental violations or enforcement actions?
- Projects that have a net negative impact on the environment or public health will be eliminated from further consideration.

CRITERION 6: SERVES ENERGY EXPLORATION OR PRODUCTION AREAS

EPA will evaluate the project on the depth and degree to which it helps support a population in a region with energy exploration, development, or production areas.

For purposes of this criterion, a region can consist of a service area within a municipality, portions of a municipality, multiple neighboring municipalities, a state or multiple states.

This criterion will simply be scored on whether or not a project serves a population in a region with energy exploration, development, or production areas.

CRITERION 7: SERVES REGIONS WITH WATER RESOURCE CHALLENGES

EPA will evaluate each project on the depth and degree to which it serves regions with significant water resource challenges. Water resource challenges can include:

- Water quality concerns in areas of regional, national, or international significance.
- Water quantity concerns related to groundwater, surface water, or other resources.
- Significant flood risk.
- Projects dealing with water resources with exceptional recreational value or ecological importance.
- Water resource challenges identified in existing regional, state, or multistate agreements.

For purposes of this criterion, a region can consist of a service area within a municipality, portions of a municipality, multiple neighboring municipalities, a state or multiple states. Where a region's water resource challenges include source water quality, projects can address the challenge at the source or within the drinking water system. Exceptional recreational value considers the economic value of recreation activities and the scarcity of alternative water resources available for similar types of recreation. Exceptional ecological importance can include water bodies designated as Tier 3 Anti Degradation water bodies pursuant to the Clean Water Act, water bodies designated by states or EPA as Outstanding National Resource Waters (or similar distinction), national wild and scenic rivers, National Estuaries, and areas of multistate collaboration, such as the Long Island Sound.

Prospective borrowers are encouraged to demonstrate how the proposed project addresses a water resource challenge and, if possible, how much of the challenge is expected to be alleviated by the project. Prospective borrowers should also discuss how the water resource challenge affects their ability to serve their customers, maintain or improve service levels, and/or poses a significant risk to human health or life.

EPA will take into consideration the following when assessing letters of interest for this criterion:

- How does the project address a water resource challenge?
- How much of the challenge is expected to be alleviated by the project?
- How does the water resource challenge affect their ability to serve their customers, maintain or improve service levels, and/or pose a significant risk to human health or life?
- What percent of the total project cost addresses the water resource challenge?

EPA will also qualitatively assess the significance of the regional challenge and the extent to which the project addresses it during the final evaluation of the project by the selection committee.

CRITERION 8: ADDRESSES IDENTIFIED PRIORITIES

EPA will evaluate each project on the depth and degree to which it addresses identified municipal, state, or regional priorities. Prospective borrowers are encouraged to demonstrate where the project is documented as a priority by referencing documents such as economic development plans, system master plans, asset management plans, and regulatory implementation plans. In addition, prospective borrowers can reference legislative, regulatory, or executive mandates that provide support for the project.

For purposes of evaluating a project for this selection criterion, EPA does not consider Capital Improvement Plans prioritized lists of projects without additional documentation or supportive information about the prioritization process.

This criterion will simply be scored on whether the project has been identified as a municipal, state, or regional priority or not.

CRITERION 9: READINESS TO PROCEED

EPA will evaluate the project on the depth and degree to which it is ready to proceed toward development. In doing so, EPA will assess whether there is a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after obligation.

EPA will evaluate:

- Where the project is in the schedule at the time of the letter of interest submittal.
- Whether the interested party indicates that it is prepared to submit an application within 365 days after receiving an invitation to advance.
- Whether there are any other issues that may affect the development and financing of the project, such as community support, pending legislation, permitting, or litigation.
- The projected development schedule for specifications and bid documents for traditional project delivery methods, such as design-bid-build.
- The projected development schedule for procurement documents, such as Requests for Qualifications and Proposals, for alternative project delivery methods, such as design-build projects.

EPA will take into consideration the following when assessing letters of interest for this criterion:

- Has the design or procurement document development phase of the project begun?
- Are there any other issues that may affect the development and financing of the project, such as community support, pending legislation, permitting, or litigation?
- When is the contracting process expected to commence?
- Are the contract or procurement documents completed or close to completion?

CRITERION 10: FINANCING PLAN

EPA will evaluate the letter of interest on the depth and degree to which the project financing plan includes public or private financing in addition to WIFIA assistance. EPA will evaluate the project's creditworthiness as stated in the WIFIA rule separately from the selection criteria scoring as described in Section 6.2.3 of the Program Handbook.

This criterion will simply be scored on whether the non-WIFIA financing has already been identified.

CRITERION 11: REDUCTION OF FEDERAL ASSISTANCE

EPA will evaluate each project on the depth and degree to which WIFIA assistance reduces the contribution of Federal assistance to the project.

EPA will take into consideration what percent of project financing is requested of WIFIA and whether the prospective borrower has additional Federal assistance that will be reduced if WIFIA funding is received.

This criterion will simply be scored on whether WIFIA funding will increase or decrease the contribution of Federal assistance to the project.

CRITERION 12: REPAIR, REHABILITATION, OR REPLACEMENT

EPA will evaluate each project on the depth and degree to which it addresses needs for repair, rehabilitation or replacement of a treatment works, community water system, or aging water distribution or wastewater collection system.

The rating scale for this criterion is based on percent of the total project cost that addresses repair, rehabilitation, and replacement. Prospective borrowers are also encouraged to provide documentation that confirms system needs that are being addressed through the proposed project and the larger system need. For example, if a project includes the replacement of a 10-year old distribution pipe, the prospective borrower may wish to explain how that replacement is part of achieving the overall repair, rehabilitation, and replacement needs of the system. EPA understands the need to repair, rehabilitate, or replace certain system assets in advance of eminent failure in order to achieve cost efficiencies and maintain system service levels.

EPA will score this criterion based on the percent of the total project cost that addresses repair, rehabilitation, and replacement.

CRITERION 13: ECONOMICALLY STRESSED COMMUNITIES

EPA will evaluate the depth and degree to which the project serves economically stressed communities, or pockets of economically stressed rate payers within otherwise non-economically stressed communities. Access to financing for critical infrastructure projects in these communities is often lacking or difficult to obtain.

A community or set of ratepayers can be considered economically stressed if:

- The Median Household Income (MHI) from the U.S. Census Bureau's American Community Survey is less than the state average.
- The Personal Income Per Capita (IPC) from the Bureau of Economic Analysis (BEA) is less than the state average.
- The poverty rate or child poverty rate is more than the equivalent state measure from the U.S. Census Bureau, Small Area Income and Poverty Estimates average.
- The percent of people under the age of 5 or over age 64 is higher than the state average.
- Other relevant state and local measures or indicator of affordability are met.

In addition, individuals with private wells and septic systems that cannot afford access to adjacent public water or wastewater system can also be considered an economically stressed community.

For purposes of evaluating a project for this selection criterion, a “significant portion of the population” should be a number greater than 50%.

EPA will take into consideration the following when assessing letters of interest for this criterion:

- Does the project serve some economically stressed communities or rate payers?
- Does the project serve a community where a significant portion of the population are economically stressed communities?

APPENDIX D: FEE SCHEDULE⁴⁰

Eligible WIFIA program prospective borrowers and borrowers will be responsible for all fees and costs associated with the WIFIA program.

TABLE 5: WIFIA PROGRAM FEES

Fee Type	Amount	Specified in Which Document	Applies to Whom
Application Fee	\$100,000 or \$25,000 (for projects serving small communities)	Application Form	Prospective borrowers
Credit Processing Fee	Costs incurred to the EPA minus application fee	Invoice at Closing	Prospective borrowers
Optional Supplemental Fee	As applicable by agreement between WIFIA program and prospective borrower	Credit Agreement	Prospective borrower
Loan Servicing Fee	As applicable	Credit Agreement	Borrowers
Extraordinary Expenses Fee	As applicable	Credit Agreement	Distressed borrowers

⁴⁰ The fee rule can be found at: <https://www.federalregister.gov/documents/2017/06/28/2017-13438/fees-for-water-infrastructure-project-applications-under-wifia>.

APPENDIX E: COMPLIANCE REQUIREMENTS

Projects receiving WIFIA credit assistance must comply with all federal laws and regulations, including, but not limited to the requirements described in Section 2.7 and the following.

ENVIRONMENTAL AUTHORITIES

- Archeological and Historic Preservation Act, Pub. L. 93-291, as amended: <https://www.nps.gov/archeology/tools/laws/ahpa.htm>
- Clean Air Act, Pub. L. 95-95, as amended: <https://www.epa.gov/clean-air-act-overview>
- Clean Water Act, Titles III, IV and V, Pub. L. 92-500, as amended: <https://www.epa.gov/aboutepa/about-office-water>
- Coastal Barrier Resources Act, Pub. L. 97-348: <https://www.fws.gov/ecological-services/habitat-conservation/cbra/Act/index.html>
- Coastal Zone Management Act, Pub. L. 92-583, as amended: <https://coast.noaa.gov/czm/about/>
- Endangered Species Act, Pub. L. 93-205, as amended: <https://www.fws.gov/endangered/>
- Farmland Protection Policy Act, Pub. L. 97-98: https://www.nrcs.usda.gov/wps/portal/nrcs/detail/?cid=nrcs143_008275
- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations Environmental Justice, Executive Order 12898: <https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf>
- Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended: <https://www.fws.gov/>
- Floodplain Management, Executive Order 11988, 42 FR 26951, May 24, 1977, as amended by Executive Order 13690, 80 FR 6425, February 4, 2015, <https://www.archives.gov/federal-register/codification/executive-order/11988.html>, <https://www.whitehouse.gov/the-press-office/2015/01/30/executive-order-establishing-federal-flood-risk-management-standard-and->, and <https://www.fema.gov/media-library/assets/documents/110377>
- Magnuson-Stevens Fishery Conservation and Management Act, Pub. L. 94-265: http://www.nmfs.noaa.gov/sfa/laws_policies/msa/
- National Historic Preservation Act, Pub. L. 89-655, as amended: <https://www.nps.gov/archeology/tools/laws/NHPA.htm>
- National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., <https://www.epa.gov/nepa>
- Protection of Wetlands, Executive Order 11990 as amended by Executive Order 12608: <https://www.epa.gov/cwa-404>

- Safe Drinking Water Act, Pub L. 93-523, as amended: <https://www.epa.gov/ground-water-and-drinking-water>
- Wild and Scenic Rivers Act, Pub. L. 90-54, as amended: <https://rivers.gov/>

ECONOMIC AND MISCELLANEOUS AUTHORITIES

- Debarment and Suspension, Executive Order 12549: <https://www.archives.gov/federal-register/codification/executive-order/12549.html>
- Demonstration Cities and Metropolitan Development Act, Pub. L. 89 -754, as amended, and Executive Order 12372: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning
- Drug-Free Workplace Act, Pub. L. 100-690: <https://webapps.dol.gov/elaws/asp/drugfree/screen4.htm>
- Labor Standards, 33 U.S.C. § 1372, <https://www.dol.gov/whd/govcontracts/dbra.htm>
- New Restrictions on Lobbying, Section 319 of Pub. L. 101-121: <https://www.epa.gov/grants/lobbying-and-litigation-information-federal-grants-cooperative-agreements-contracts-and-loans>
- Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to federal contracts, grants, or loans under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, and Executive Order 11738: <https://www.archives.gov/federal-register/codification/executive-order/11738.html>
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.): <https://www.gpo.gov/fdsys/pkg/FR-2005-01-04/pdf/05-6.pdf>

CIVIL RIGHTS, NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY AUTHORITIES

- Age Discrimination Act, Pub. L. 94-135: <https://www.eeoc.gov/laws/statutes/adea.cfm>
- Equal Employment Opportunity, Executive Order 11246: https://www.dol.gov/ofccp/regs/compliance/ca_11246.htm
- Section 13 of the Clean Water Act, Pub. L. 92-500: <https://www.epa.gov/ocr/section-13-federal-water-pollution-control-act-amendments-1972>
- Section 504 of the Rehabilitation Act, Pub. L 93-112 supplemented by Executive Orders 11914 and 11250: <https://www.epa.gov/ocr/section-504-rehabilitation-act-1973>
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.): <https://www.epa.gov/environmentaljustice/title-vi-and-environmental-justice>
- Participation by Disadvantaged Business Enterprises in Procurement under EPA Financial Assistance Agreements: <https://www.epa.gov/resources-small-businesses>



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