



WIFIA HANDBOOK

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EXECUTIVE SUMMARY

The WIFIA Program Handbook, written for prospective borrowers, applicants, and borrowers, describes how the U.S. Environmental Protection Agency (EPA) administers the Water Infrastructure Finance and Innovation Act (WIFIA) program. This handbook provides readers with the information and resources needed to understand the requirements and procedures for obtaining a WIFIA loan and remaining in compliance with WIFIA program rules and regulations.

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

Section 1 – Introduction to WIFIA provides background information on the WIFIA program and introduces the WIFIA program’s objectives. This section helps the reader understand the purpose and mission of the WIFIA program.

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

Section 3 – WIFIA Loan Products outlines the various types of loan, project(s), and borrower structures available under the WIFIA program.

Section 4 – Credit Requirements and Policies describes the terms of WIFIA loans required by statute, as well as key credit policies governing the WIFIA program. These requirements and policies influence the structuring of projects’ financing plans and guide the WIFIA program’s creditworthiness determination.

Section 5 – Benefits and Flexibilities provides an overview of the numerous financial and programmatic benefits and flexibilities of WIFIA loans.

Section 6 – Loan Process Summary provides an overview of the process by which WIFIA loans are awarded. It provides a high-level understanding of the major steps and milestones involved in obtaining WIFIA loans and the order in which those steps occur.

Section 7 – Project Selection describes the base program selection phase of the application process, including the letter of interest (LOI) submission and evaluation. This section helps prospective borrowers understand how to submit a complete LOI for a WIFIA loan and the process used by the WIFIA program to select projects to invite to submit applications.

Section 8 – Project Approval describes the phase of the loan approval process through loan closing. This section helps prospective borrowers understand how to submit a complete application for a WIFIA loan and what process and criteria the WIFIA program will use to evaluate and approve projects to receive a WIFIA loan. This section also describes the closing process, which occurs after prospective borrowers have been approved for a WIFIA loan, the WIFIA program’s requirements for proceeding to closing, and the structure and purpose of the loan agreement.

Section 9 – Post-Closing Activities and Project Monitoring explains the activities and requirements that follow loan 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 – Project Selection Criteria describes the selection criteria and the way the WIFIA program will evaluate each criterion.

Appendix D – Costs Schedule outlines the costs associated with WIFIA financing.

Appendix E – Confidential Business Information provides information about the ability to make a business confidentiality claim.

Application Materials, including LOI and application forms for the WIFIA program, are available on the WIFIA website.

WIFIA Legislation and Regulations, including the statute, the implementation rule, and the fee rule, are available on the WIFIA website.

CONTACT INFORMATION

EPA welcomes questions and inquiries concerning the WIFIA program. The WIFIA program can be contacted at wifia@epa.gov.

Courier address:

Director, WIFIA Program

US EPA William Jefferson Clinton East Building-room 7334A

1201 Constitution Ave, NW Washington, DC 20004

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 for the [WIFIA program newsletter](#).

SECTION 1: INTRODUCTION TO THE WIFIA PROGRAM

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The Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) established the WIFIA program, a federal loan program operated by EPA headquarters that provides supplemental, flexible, low-cost credit assistance to public and private borrowers for all types of wastewater, drinking water, and stormwater projects. The WIFIA program offers long-term loans that can be combined with other funding sources, such as State Revolving Fund assistance, municipal bonds, and federal and state grants, to help communities deliver more critical water infrastructure projects and keep rates affordable.

WIFIA authorizes EPA to provide direct loans and loan guarantees to eligible borrowers for water infrastructure projects.¹ To request financing, prospective borrowers will submit a letter of interest (LOI) that demonstrates their projects' eligibility, financial creditworthiness, engineering feasibility, and alignment with WIFIA selection criteria. Using the information provided in the LOI, EPA will evaluate and select projects. For the selected projects, prospective borrowers will be invited to apply to EPA. In the application, selected prospective borrowers provide EPA with materials necessary to underwrite the proposed WIFIA loan and to develop an individual loan agreement between the applicant and EPA. EPA will only invite projects to apply if it anticipates that those projects can obtain a WIFIA loan. Following loan closing, borrowers and their designated WIFIA portfolio manager will be in close coordination to ensure ongoing compliance with the loan agreement, disburse loan proceeds, and process repayments.

EPA's WIFIA program is authorized to provide loans through 2 programs:

- **WIFIA Base Program:** The base program is available to a diverse set of borrowers to finance water infrastructure projects.
- **State Infrastructure Financing Authority WIFIA (SWIFIA) Program:** In section 4201 of America's Water Infrastructure Act (AWIA) of 2018, Congress authorized EPA to establish a loan program exclusively for State infrastructure financing authority borrowers (i.e., State Revolving Fund programs) to finance a combination of State Revolving Fund (SRF)-eligible wastewater and/or drinking water projects submitted in a single application.

This handbook focuses only on the WIFIA base program. To learn more about the SWIFIA program, review the [SWIFIA program handbook](#).

WIFIA loans have distinct benefits that are not readily available in the capital markets. The WIFIA program can act as a patient investor and offer loans with extended maturities due to the federal government's long-term investment horizon. The WIFIA program can offer borrowers the advantage of developing customized terms, including sculpted repayment schedules to match the specific needs of a

¹ 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".

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 developing and improving water infrastructure throughout the nation. The WIFIA program is intended to complement existing funding resources, not replace them. All projects that receive WIFIA loans must be co-financed with other sources of funding, such as 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 provide loans to entities that it finds to be creditworthy during the evaluation process.

SECTION 2: ELIGIBILITY REQUIREMENTS

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This section outlines the requirements that entities applying for and receiving WIFIA loans must satisfy, as defined by the WIFIA statute, regulations, and EPA policy. Should a LOI or application demonstrate that the prospective borrower or project is not eligible, the WIFIA program will not continue its evaluation and will not consider the project for a WIFIA loan.

2.1 ELIGIBLE BORROWERS

The WIFIA program can lend to public and private entities, including:²

- A corporation.
- A partnership.
- A joint venture.
- A trust.
- A 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.³

2.2 ELIGIBLE PROJECTS

The WIFIA program offers financing for the planning, design, and implementation of a broad variety of water infrastructure projects, including:

1. Wastewater projects that are eligible for the Clean Water SRF as described under section 603 of the Federal Water Pollution Control Act, notwithstanding the public ownership requirement under paragraph (1) of that subsection. The [Clean Water SRF website](#) provides additional eligibility information for this project type.
 - a. Examples of such projects include, but are not limited to, the following: planning, design, and construction of treatment and conveyance systems at a publicly or privately owned treatment works; planning, design, and construction of green and traditional stormwater infrastructure; or implementing nonpoint source pollution prevention projects.
2. Drinking water projects that are eligible for the Drinking Water SRF as described in section 1452(a)(2) of the Safe Drinking Water Act. The [Drinking Water SRF website](#) provides additional eligibility information for this project type.
 - a. Examples of such projects include, but are not limited to, the following: planning, design, and construction of treatment and distribution systems for public water

² [33 U.S.C. § 3904\(1-7\)](#)

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

systems; connecting to a new source of drinking water because of contamination at the existing source; or expanding the drinking water system to serve new communities.

3. Projects that enhance energy efficiency in the operation of a public water system or a publicly owned treatment works.
4. Projects for the 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).
5. 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.
6. A project to prevent, reduce, or mitigate the effects of drought, including projects that enhance the resilience of drought-stricken watersheds.
7. The acquisition of real property or an interest in real property.
8. A combination of eligible wastewater or drinking water projects, as defined in numbers 1-2 above, for which a state infrastructure financing authority submits a single application.
9. A combination of eligible project, described in numbers 1-7 above, secured by a common security pledge, for which a single eligible entity, or a combination of eligible entities, submits a single application.

The WIFIA program can make a project eligibility determination prior to LOI submittal. Provide requests in writing, including a short (1-2 page) description of the project to wifia@epa.gov.

2.3 COST THRESHOLD

For a project to be eligible for a WIFIA loan, the project's eligible costs, as defined in Section 2.6, must be reasonably anticipated to be at least \$20 million.⁴ For these projects, the WIFIA program can finance up to 49 percent of eligible project costs. This threshold is lower for projects serving small communities. Small community projects must be reasonably anticipated to total at least \$5 million (and may be eligible to receive loans up to a maximum of 80 percent of eligible project costs). The statute defines projects in small communities as projects eligible for the Clean Water and Drinking Water SRFs, as defined in numbers 1 and 2 of the eligible project list in Section 2.2, that serve a community of not more than 25,000 individuals.⁵ See Section 2.7 for more information on small communities.

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.⁶ The prospective borrower can show support by including a certified letter signed by the supporting State, tribal, or municipal department or similar agency; governor, mayor or other similar designated authority; statute or local ordinance, or any other means by which government approval can be evidenced.

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

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

⁶ [33 U.S.C. § 3907\(a\)\(4\)\(B\)](#)

2.5 CREDITWORTHINESS

The borrower must demonstrate a reasonable assurance of repayment of the loan over the term of the requested assistance. In determining a project's creditworthiness, the WIFIA program considers 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.⁷

2.6 ELIGIBLE COSTS

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 loan 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 paid by, or for the account of the borrower, associated with the following activities, as defined in the WIFIA statute⁸:

- 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 loans), 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.
- Interest during construction: Eligible costs include interest during construction on capital market bonds and notes, SRF loans, and other similar debt to be approved on a case-by-case basis.
- Debt service reserve funds: Eligible costs include the initial funding of a debt service reserve fund for a WIFIA loan, capital market bonds, SRF loans, and other similar WIFIA project debt as approved on a case-by-case basis. Debt service reserve funds must be sized to capital market standards. The initial balance may be funded after financial close and through multiple disbursements of the WIFIA loan.
- Capital issuance expenses: Eligible costs include capital issuance expenses. These generally include costs of financial, legal, and other professional services; costs of issuing WIFIA project

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

⁸ [33 U.S.C. § 3906](#)

debt, such as fees, transaction costs and other customary charges imposed by lenders; and the cost of obtaining a credit rating letter for the WIFIA loan and other WIFIA project debt.

- Major maintenance or capital expenditure reserve funds: The WIFIA program will consider the eligibility of spare major essential items that are included in the construction contract on a case-by-case basis. For project financings, eligible costs generally include the initial cash funding of Major Maintenance or Cap Ex Reserve Funds.

Additionally, indirect costs allocable to the development, oversight, or management of a project are generally eligible.

PREVIOUSLY INCURRED PROJECT COSTS

Prospective borrowers may request that costs incurred prior to receipt of a WIFIA loan, including the value of any integral in-kind contributions, be included as a part of eligible project costs⁹. The WIFIA program will approve such requests on a case-by-case basis. The WIFIA program may count a borrower's previously incurred costs toward the WIFIA project total budget provided that those project costs are an integral part of the overall WIFIA project effort. There is no strict time limitation for looking back to determine eligible project costs. However, the project costs must be directly related to the project receiving WIFIA financing and compliant with other WIFIA program eligibility rules and other Federal requirements.

In addition, the WIFIA program may reimburse borrowers for properly documented costs incurred prior to financial close. The WIFIA program will not refinance completed projects. Projects are required to be pre-construction or under construction at the time of loan closing. The WIFIA program retains the right to ask for appropriate documentation to evidence such costs for both sizing the WIFIA loan and reimbursement.

INELIGIBLE PROJECT COSTS

The following are not eligible project costs: debt principal payments; capitalized interest on WIFIA loans; Construction Contingency Reserve Fund for cost overruns during construction; retainage from payments to designers or constructors; and Operating and Maintenance Reserve Funds.

2.7 SMALL COMMUNITIES

Under the WIFIA program's statute and regulation, small communities of 25,000 people or less have a minimum project size of \$5 million (compared to \$20 million for large communities). EPA may also provide loans of up to 80 percent in extraordinarily exceptional circumstances. For small communities of 25,000 people or less who face significant water infrastructure challenges and economic or administrative hardship accessing funding and financing, the WIFIA program may provide loans up to a maximum of 80 percent. By providing small communities WIFIA loans up to 80 percent of eligible project costs, the WIFIA program is meeting an exceptional need and making the project financing simpler and more accessible. EPA wants to ensure the benefits of the WIFIA program are accessible to communities

⁹ The [Previously Incurred Costs in the WIFIA Program](#) rule amends the WIFIA regulations to clarify the process and conditions for including costs incurred and the value of integral in-kind contributions made before loan closing in the calculation of total eligible costs. It also explains the process for being reimbursed for those eligible costs by WIFIA loan proceeds.

of all sizes, and that WIFIA financing can be utilized to address the environmental and public health challenges these communities face.

2.8 FEDERAL COMPLIANCE REQUIREMENTS

Borrowers receiving WIFIA loans must comply with all relevant federal laws and regulations. Additional information on WIFIA federal compliance requirements is available on the WIFIA program website:

<https://www.epa.gov/wifia/wifia-federal-compliance-requirements>.

SECTION 3: WIFIA LOAN PRODUCTS

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This section outlines the various types of loan structures and products offered by the WIFIA program.

3.1 INDIVIDUAL PROJECT UNDER A SINGLE LOAN

An individual project consists of all the construction necessary to complete the building or work regardless of the number of contracts or sources of funding involved so long as all contracts and sources of funding are closely related in purpose, time, and place. This precludes the intentional splitting of projects into separate contracts with separate sources of funding to avoid federal requirement compliance on some portion of a larger project, particularly where the activities are integrally and proximately related to the whole. However, there are many situations in which major construction activities are clearly undertaken in separate phases that are distinct in purpose, time, or place. In this case, a WIFIA loan for one or more phases would carry separate requirements from non- WIFIA funded phases.

In general, a project should involve new construction or work. This does not mean that a project can only involve brand new infrastructure that did not previously exist. Rather, new construction or work can relate to existing infrastructure. For example, repair, rehabilitation or replacement of an existing plant or pipe would involve new construction and would be considered an eligible project. In addition, projects such as water conservation and surface water protection and restoration are eligible for WIFIA funding. Such projects may include land purchases and programmatic expenses and may not include construction.

3.2 MULTIPLE PROJECTS UNDER A SINGLE LOAN

The WIFIA program can also fund multiple projects through a single loan if they are secured by a common security pledge and submitted in a single LOI and application. By statute, the WIFIA program cannot fund a single loan consisting of multiple projects secured by various independent streams of revenue. For example, a single loan to finance (1) a wastewater project supported by the streams of wastewater revenue and (2) a land acquisition project supported by property tax revenue of the city, would not be allowed. The WIFIA program will consider a loan with multiple projects pledged by various sources of revenue if these streams are cross-collateralized.

There are two options for borrowers to bundle projects into a single loan:

- **Program of Projects.** A program of projects consists of multiple sub-projects implementing a common type of work (e.g., pipe replacement or manhole replacement) across multiple locations, which may not be identified or well defined at the time of loan closing. A program of projects can include a list of sub-projects that 1) serve a common purpose, 2) include similar work for the sub-projects and 3) have similar construction time frames, generally limited to five years. A program of projects typically has a single environmental review because the scope of work for all sub-projects is similar.

- **Combination of Projects.** A combination of projects can address different aspects of a system with each sub-project providing its own public benefit (e.g., a loan for treatment plant upgrades, reservoir improvements, and pipe rehabilitation). Unlike a program of projects, a combination of projects has defined locations and scopes of work for each sub-project at loan closing. The WIFIA program has flexibility in determining the construction timeframe for substantial completion of a combination of projects, but a timeframe of longer than seven years should include reasonable justification. Because of the wide variety of project types and locations, each sub-project generally needs a separate environmental evaluation.

By bundling projects in a single loan, borrowers gain:

- Financing certainty for all the included projects expected to be constructed within the allowable construction timeframe. Borrowers can request disbursements for any project included in the loan immediately following closing until one year after substantial completion of the final project.
- The ability to use WIFIA loans to finance smaller projects that would not individually meet the WIFIA program's minimum project cost requirement, \$5 million for small communities and \$20 million all other communities.

For examples of multiple projects financed by a single WIFIA loan, visit <https://www.epa.gov/wifia/wifia-presentations-and-factsheets>.

3.3 MULTIPLE PROJECTS UNDER A MASTER AGREEMENT

Borrowers seeking WIFIA financing for multiple projects under a single WIFIA LOI may benefit from a Master Agreement. A Master Agreement is an umbrella contract between EPA and a borrower, providing an up-front commitment of loan proceeds (i.e., a reservation of loan funding) and a common set of legal and financial terms under which a borrower can close multiple WIFIA loans over time. Borrowers execute loans under the Master Agreement as projects are ready to proceed and technical and environmental documentation is complete. A Master Agreement may be beneficial when the phasing, cost, scope, schedule, and location of some projects may change as the project develops. Borrowers may request a master agreement in their LOI or application, or EPA may offer it.

The benefits of the master agreement include:

- **Facilitating bundling of staggered projects.** Prospective borrowers can submit a single LOI and application to the WIFIA program and receive multiple loans under the Master Agreement for projects with staggered project development time frames. Prospective borrowers can also utilize a Master Agreement to secure a planning and design loan and then come in later for additional loan(s) to complete project construction. Using a single LOI and application form will reduce the effort and resources expended by a borrower in seeking WIFIA loans.
- **Ensuring access to timely low-cost capital.** Once a Master Agreement is in place, the WIFIA program will expedite the closing of individual loans under the Master Agreement after the borrower provides notice that funds are needed for a project and EPA completes a technical and environmental review for the project. Individual loans will have their own interest rates, set on

the date of loan closing, and a common set of legal and financial terms as outlined in the Master Agreement. EPA and the borrower execute individual loans under the Master Agreement using a standard short-form loan agreement. Additional due diligence and documentation at each loan closing is limited. As a result, the WIFIA program can underwrite and document each WIFIA loan under a Master Agreement quickly and at a lower cost than loans closed outside of a Master Agreement.

A fact sheet illustrating the benefits of utilizing a master agreement is available at:

<https://www.epa.gov/wifia/wifia-presentations-and-factsheets>.

3.4 MULTIPLE PROJECTS SUBMITTED BY STATE INFRASTRUCTURE FINANCE AUTHORITIES

These considerations do not apply to a combination of projects submitted to EPA by a State infrastructure financing authority (i.e., SRF) under a single application for either the WIFIA base program or the SWIFIA program. State infrastructure financing authorities are allowed by statute to submit an application for a combination of SRF-eligible projects. In effect, they are capitalizing their SRF programs through the addition of WIFIA loans to their base program. By their nature, SRF programs lend to a variety of different projects with different security pledges, purposes, and construction time frames. Therefore, SRF programs do not have to adhere to the same requirements as other borrowers for purposes of this section.

3.5 PLANNING AND DESIGN-ONLY LOANS

The WIFIA program may fund planning and/or design projects that meet the WIFIA program's eligibility, creditworthiness, and statutory requirements. These loans are for financing projects where repayment of the loan is not tied to construction of the project. The final deliverable and completion of the project may vary and will be agreed upon between the WIFIA program and the prospective borrower. The final deliverables may include, but are not limited to, planning reports, design reports, or plans and specifications. Disbursements for planning and design only loans will be tied to meeting certain agreed upon milestones, such as completion of 30, 60, and 90 percent design plans.

3.6 MULTIPLE BORROWERS FOR ONE PROJECT

For projects being developed and funded by multiple entities, they should coordinate to ensure monitoring and compliance with federal requirements, as federal requirements will apply to the entire WIFIA project, even if only one of the entities is applying for a WIFIA loan. Prospective WIFIA borrowers that are co-funding a project should provide the WIFIA program with documentation that describes the contractual relationship between the partners and the agreed co-funding structure for the project, as well as an acknowledgement and commitment by all the project partners that the project will comply with all applicable federal requirements.

Generally, for these co-funded projects, the WIFIA program will finance up to 49 percent¹⁰ of each prospective borrower's share of eligible project costs (i.e., amounts paid by or for the account of the

¹⁰ Pursuant to [33 U.S.C. § 3908\(b\)\(2\)\(A\)](#), the Administrator may make available up to 25 percent of its budget authority for a given fiscal year to provide loans to one or more projects in excess of 49 percent (up to 80 percent) of the total project costs. Further details may be outlined in the relevant NOFA.

borrower in connection with such project)¹¹. For instance, if one borrower's share of eligible project costs for a project is 25 percent, the WIFIA program will finance up to 49 percent of the 25 percent share. If a second borrower's share is 50 percent, then WIFIA will finance up to 49 percent of the 50 percent share. In all instances, the WIFIA program's combined assistance for any project will not exceed 49 percent of eligible project costs (or, in extraordinarily exceptional circumstances, 80 percent of eligible project costs), and the total amount of federal assistance shall not exceed 80 percent of total project costs.

In certain instances, depending on the project development and funding structure of the specific project, the WIFIA program may consider whether a prospective borrower could include as part of its project budget capital contributions from another co-funding entity, if the other co-funding entity provides written confirmation that it does not expect to apply for a WIFIA loan for its share of eligible costs for that project. For instance, if a prospective borrower is responsible for developing the project and incurring the eligible project costs for that project but is also receiving capital contributions from other partners for the project and those partners have confirmed in writing that they will not apply for WIFIA loans, the prospective borrower may, in certain instances, include those capital contributions as part of its overall project budget. Doing so would prevent those other partners from applying for WIFIA loans in the future for the same eligible project costs.

¹¹ [33 U.S.C. § 3906](#); [40 C.F.R. § 35.10005](#).

SECTION 4: CREDIT REQUIREMENTS AND POLICIES

SECTION 4: CREDIT REQUIREMENTS AND POLICIES

The WIFIA program can structure WIFIA loans to provide low cost, long-term, supplemental assistance under customized terms to qualified projects. To access these benefits, loans must comply with all statutory terms and conditions and programmatic credit policies. The statute authorizes the WIFIA program to provide both secured loans and guarantees on a loan¹² or other debt obligation issued by a borrower and funded by a third-party lender. These terms and conditions support the requirement that borrowers must be deemed creditworthy by the EPA Administrator to be eligible for WIFIA loans.

4.1 STATUTORY TERMS AND CONDITIONS

The statute mandates several terms and conditions for WIFIA loans.

Maximum Amount: WIFIA loans may not exceed 49 percent (or up to a maximum of 80 percent for small communities of 25,000 people or less) of the reasonably anticipated eligible project costs, as defined in Section 2.6.¹³ WIFIA loans may not exceed the amount of the borrower's senior obligations unless the WIFIA loan receives an investment-grade rating from a Nationally Recognized Statistical Rating Organization (NRSRO).¹⁴

Maximum Federal Involvement: Total federal assistance for any project may not exceed 80 percent of total project costs.¹⁵

Interest Rate: The WIFIA program offers fixed-rate loans. The interest rate of the WIFIA loan will be no less than the yield on U.S. Treasury securities of a similar maturity to that of the WIFIA loan on the date of execution of the loan agreement.¹⁶ To establish the interest rate on the date of the loan closing, the WIFIA program will identify the Treasury rates using the [daily rate tables](#) for State and Local Government Series (SLGS) investments. The WIFIA program will then add one basis point to the SLGS rate. To estimate the yield on comparable Treasury securities, the WIFIA program will use a maturity that is closest to the weighted average life of the WIFIA loan, measured from first disbursement. In limited circumstances, the program and the borrower may re-execute the WIFIA loan to reset the interest rate, as long as the borrower has spent less than 50 percent of eligible project costs and has not drawn funds.

¹² Prospective borrowers interested in a loan guarantee should contact the WIFIA program for additional information.

¹³ The statute ([33 U.S.C. § 3908\(b\)\(2\)\(A\)](#)) authorizes EPA to use up to 25 percent of its budget authority for a given fiscal year to provide loans to one or more projects of up to 80 percent of the total costs of any given project. EPA will use this authority only in extraordinarily exceptional circumstances. Opportunities to request more than 49 percent may be outlined in the NOFA.

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

¹⁵ 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 percent. [33 U.S.C. § 3908\(b\)\(9\)\(B\)](#).

¹⁶ [33 U.S.C. § 3908\(b\)\(4\)](#)

Maturity Date: The final maturity date of the WIFIA loan must be the earlier of 35 years after the date of substantial completion of the relevant project or the useful life of the project.¹⁷ If the borrower is a state infrastructure financing authority, the final maturity date of the WIFIA loan must be no later than 35 years after the first disbursement of funds.

Debt Service Payment Terms: Scheduled payments on the WIFIA loan must commence no later than five (5) years following substantial completion of the project.¹⁸ The debt service payment schedule may be sculpted to accommodate 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 loans 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.¹⁹ The WIFIA program interprets "dedicated revenue sources" to include such sources as taxes, rate revenue, transfers pledged from state or local governments, municipal general obligation pledges, general recourse corporate financing, project revenues, or other revenues that are pledged for the purpose of paying debt service on the WIFIA loan.

Deferrals: Debt service payments on the WIFIA loan, in accordance with the debt service payment schedule, may be deferred on a case-by-case basis. EPA may grant a deferral only if there remains a reasonable assurance of repayment of the WIFIA loan and the final maturity of the WIFIA loan remains unchanged. Under a deferral, any unpaid principal and interest will be added to the outstanding balance of the WIFIA loan.

Prepayment Conditions: A borrower may prepay WIFIA loans in whole or in part without penalty at any time.²⁰ WIFIA loans may not be prepaid using federal funds.

Lien Priority: A WIFIA loan may not be subordinated in security and priority to other debt obligations such as bonds or SRF loans used to fund the project. A WIFIA loan may, on a case-by-case basis, be subordinate in priority and security to previous or future debt obligations an eligible entity may incur for other purposes unrelated to the WIFIA project. Such cases will generally be limited to highly rated public agency borrowers with on-going debt issuance programs (such as through a pre-existing indenture) where the WIFIA loan is rated in the A category or higher.

Fees: All WIFIA loans are subject to fees, as described in Appendix D, to cover all or a portion of EPA's costs associated with providing loans.

Non-Federal Share: The proceeds of a secured loan may be used to pay any non-federal share of project costs required if the loan is repayable from non-federal funds.

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

¹⁸ [33 U.S.C. § 3908\(c\)\(2\)](#)

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

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

4.2 CREDIT POLICIES

EPA must deem a borrower creditworthy to be eligible for a WIFIA loan. In support of this requirement, the WIFIA program has established several credit policies. These policies influence the structuring of projects' financing plans and guide the WIFIA program's creditworthiness determination.

Disbursement Timing: The WIFIA program will disburse proceeds of the WIFIA loan to reimburse eligible project costs incurred based on submitted invoices and receipts. Disbursements may be scheduled as often as once per month.

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 loans may capitalize interest as warranted by the cash flow profile of the project. The WIFIA program will review the transaction's resulting capital structure, creditworthiness, and uses of any excess cash prior to accepting any proposed interest capitalization periods that are post-substantial completion of the project.

Amortization Requirement: The WIFIA program will seek to amortize the WIFIA loan over the useful life of the project. In some instances, the WIFIA program may require borrowers to prepay the WIFIA loan with excess revenues, refinancing proceeds, or trapped cash flow, as appropriate.

Variable Rate Interest Exposure: The WIFIA loan will not be exposed to material amounts of variable rate debt in the borrower's capital structure.

Additional Debt: If the financial structure permits future additional indebtedness, EPA will require an additional indebtedness test to ensure that such issuances do not weaken the creditworthiness of the WIFIA loan over the long term.

Useful Life of Projects: In determining the useful life of a project, EPA will consider the operational life of the key 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 loan.

SECTION 5: WIFIA LOAN BENEFITS AND FLEXIBILITIES

SECTION 5: WIFIA LOAN BENEFITS AND FLEXIBILITIES

Communities may face several challenges when trying to initiate water infrastructure projects, such as addressing multiple projects at once, needing to move quickly, and minimizing impacts to rate payers. The WIFIA program has several solutions to these challenges. To learn more, read through the sections below that outline common community challenges and potential WIFIA financing solutions.

5.1 I NEED TO LIMIT IMPACTS ON RATE PAYERS.

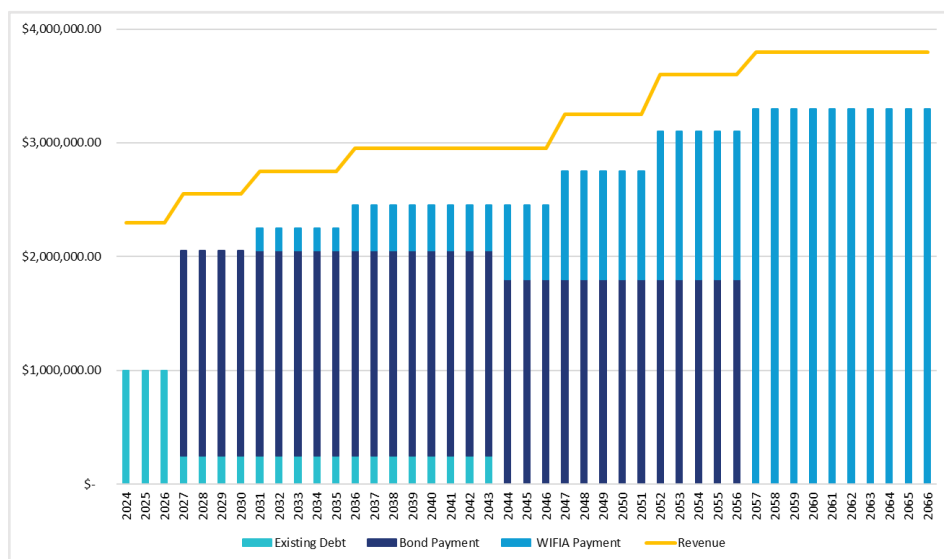
Raising water rates is typically unavoidable when paying for water infrastructure projects or capital improvement programs. One option for mitigating these rate increases is securing grants or affordable, low-cost financing. This funding can help moderate water rate increases and limit impacts on rate payers.

HOW CAN WIFIA FUNDING HELP?

The WIFIA program offers several flexibilities to secure debt financing for projects now while minimizing the burden on current ratepayers, including customized repayment schedules and the ability to wrap WIFIA loans around existing debt. These options help accelerate water infrastructure investments, while limiting rate payer impacts.

- **Sculpted Repayment Schedule:** Borrowers can customize their repayments to match their anticipated revenues and expenses for the life of the loan. This flexibility provides borrowers with time they may need to phase-in rate increases to generate revenue to repay the loan. The WIFIA program offers repayment terms of up to 35 years after project completion. Borrowers may also defer repayments for up to 5 years after project completion and make interest-only payments for additional years.

Figure 5-1: Example of a Customized Debt Repayment Schedule



- **Wrap WIFIA Loan Around Other Debt:** The ability to slowly increase loan payments allows borrowers to wrap principal repayments around other debt. For example, a project co-funded with a 20-year State Revolving Fund (SRF) loan and a 35-year WIFIA loan could take advantage of the WIFIA program’s flexibility and make only minimal payments until year 21, after the SRF loan has been fully repaid.

5.2 I HAVE A “ONCE-IN-A-GENERATION” PROJECT.

Communities across the country are undertaking critical “once-in-a-generation” projects that will modernize water infrastructure, ensure compliance with current and future regulatory requirements, and prepare for the future. These projects are complex and will likely require multiple sources of funding. Given the complexity, communities will spend several years completing project planning, design, and construction. Most importantly, the significant investment needed for “once-in-a-generation” projects will have an immediate impact on current ratepayers.

HOW CAN WIFIA FUNDING HELP?

Utilizing WIFIA program flexibilities can help communities plan for and fund once-in-a-generation projects. By spreading loan payments out gradually over a longer term using WIFIA financing, communities can reduce the impact on current ratepayers while locking in funding, bundling critical projects for accelerated implementation, and providing funding certainty.

The WIFIA program offers several solutions to help communities address these large projects:

- **Sculpted Repayment Schedule:** Borrowers can customize their repayments to match their anticipated revenues and expenses for the life of the loan. This flexibility provides borrowers with time they may need to phase-in rate increases to generate revenue to repay the loan. The WIFIA program offers repayment terms of up to 35 years after project completion. Borrowers may also defer repayments for up to 5 years after project completion and make interest-only payments for additional years.
- **Lock in Funding Early:** Communities can lock in WIFIA financing early and all at once, providing funding certainty for critical water infrastructure projects. WIFIA loans can be the first money in the project, without matching funds secured. The WIFIA program offers expeditious loan closing in as little as 4 months (or at the borrower’s preferred speed).
- **Project Bundling Options:** The WIFIA program has a few options for bundling projects, depending on borrower needs.
 - Borrowers can [bundle several projects into a single loan](#). Bundling projects streamlines processes and saves borrowers time and money by only closing one loan, instead of separate loans for each individual project. This option can be extremely advantageous for communities looking to complete large, complex projects.
 - The WIFIA program also offers a [master agreement](#), which is an umbrella contract between EPA and a borrower that provides an upfront commitment of loan proceeds and a common set of legal and financial terms under which a borrower can close multiple WIFIA loans over time. Master agreements are helpful for borrowers with several projects that are in different phases, have different schedules, or are in different stages of the environmental review process. By evaluating the credit and negotiating the legal framework upfront, the WIFIA program and the borrower can close each loan

under a master agreement faster and for lower cost than multiple loans outside of a master agreement.

5.3 I AM WORRIED ABOUT RISING COSTS.

Undertaking large water infrastructure projects in the current environment can be challenging as communities face pressure from higher interest rates, construction bid prices, and material costs. Cost uncertainty can make it difficult to get buy-in for large projects and can make planning for them daunting. Concerns about loans and the associated interest rates can deter communities from seeking necessary financing for projects.

HOW CAN WIFIA FUNDING HELP?

Rising costs are valid concerns but do not need to prevent implementing necessary water infrastructure improvements. The WIFIA program has several options to help communities accelerate their water infrastructure projects while mitigating the impacts of rising costs. These benefits provide up-front funding certainty and post-closing flexibility.

- **Locked-in Interest Rate:** Borrowers lock in their interest rate on the date of loan closing. This is advantageous because it allows borrowers to immediately lock in their rate for the entire multi-year construction project and only draw funds as needed.
- **Interest Rate Reset:** Even with the locked-in interest rate, borrowers may want additional flexibility, given the ever-changing interest rate environment. If rates go down in the future prior to the WIFIA loan being drawn, borrowers may request a one-time [interest rate reset](#) to lower the WIFIA loan interest rate.
- **Amortization and Draw Schedule Adjustments:** After loan closing, changes during project construction can impact financing plans. Borrowers might be interested in adjusting their loan amortization and draw schedules to address these changes. To maximize flexibility, the WIFIA program offers automatic restructuring of amortization and draw schedules if there are changes to project costs, schedule, or funding sources. This option helps borrowers wrap WIFIA loans around other funding sources and create a flexible repayment schedule that meets their needs.
- **Ability to Change Projects Within a Loan:** There may be a need to add, drop, or swap projects included in a WIFIA loan due to project cost increases after loan closing. If construction bids come in higher than expected and project changes are necessary, the WIFIA program allows the addition, removal, or swap of projects under the WIFIA loan.

5.4 I NEED TO COMBINE MULTIPLE SOURCES TO FUND MY PROJECT.

There is rarely a perfect funding source to solve every water system challenge. Instead, communities typically utilize a variety of funding sources to address their drinking water, wastewater, and stormwater infrastructure needs. These potential funding sources include cash, bonds, grants, and low-cost loans. While multiple funding sources can benefit communities, complications can also arise.

HOW CAN WIFIA FUNDING HELP?

To minimize complications from combining many different funding sources, the WIFIA program works with co-funding entities to create efficient processes for borrowers. Borrowers can take advantage of several WIFIA financing benefits to streamline this process, including the flexibility to co-fund with a wide range of sources, ability to secure funding throughout the project lifecycle, and options to wrap

WIFIA loan around other debt and make amortization and draw schedule adjustments. These cooperative efforts reduce burden and maximize community benefits.

- **Variety of Co-funding Options:** The WIFIA program was designed to be a supplemental lender and coordinates well with other types of water infrastructure financing. WIFIA loans pair well with both short-term construction financing and long-term financing, such as State Revolving Fund (SRF) loans and bonds.
- **Secure Other Funding During the Project:** WIFIA borrowers always have the option of securing additional funding sources, even after loan closing. This helps borrowers find the most advantageous funding strategy that meets their needs.
- **Wrap WIFIA Loan Around Other Debt:** Borrowers can customize their repayments to match their anticipated revenues and expenses for the life of the loan. The ability to slowly increase loan payments allows borrowers to wrap principal repayments around other debt. For example, a project co-funded with a 20-year SRF loan and a 35-year WIFIA loan could take advantage of the WIFIA program's flexibility and make only minimal payments until year 21, after the SRF loan has been fully repaid.
- **Amortization and Draw Schedule Adjustments:** After loan closing, changes during project construction can impact financing plans. Borrowers might be interested in adjusting their loan amortization and draw schedules to address these changes. To maximize flexibility, the WIFIA program will work with borrowers who request restructuring of amortization and draw schedules if there are changes to project costs, schedule, or funding sources. This option helps borrowers create a flexible repayment schedule that works with other funding sources.

5.5 I CAN'T GET WHAT I NEED FROM TRADITIONAL FUNDING SOURCES.

There are many options for funding water infrastructure projects, and each option has different benefits, timelines, and requirements. It can be challenging to navigate these various requirements and determine which option best meets the community's needs. Furthermore, more customized funding options may be possible but often cost the community more money through additional fees or increased interest rates.

HOW CAN WIFIA FUNDING HELP?

The WIFIA program offers several benefits that aren't traditionally offered with other financing sources, including low interest rates, customized debt structuring, and post-loan closing flexibilities – all available to borrowers without increasing their interest rate. These options provide borrowers with creative, affordable options they might not find elsewhere.

- **Interest Rate Set to AAA Treasury Yields:** Regardless of the borrower's investment-grade credit rating, WIFIA interest rates are solely determined by the Treasury rate on the date of loan closing. This benefit saves many borrowers money compared to rates they might receive in the bond market.
- **Interest Accrual Flexibility:** A WIFIA loan is a cost-reimbursement loan. Interest does not accrue until the borrower draws against the loan. Once incurred costs are reimbursed, the borrower will start to accrue interest, but only on the amount of money disbursed. This is a meaningful benefit to WIFIA borrowers because disbursements can be requested and interest accrued only when funds are needed.

- **Works Within Existing Debt Structures:** In most cases, the WIFIA program can work within a borrower's existing debt structure and provide loan structuring flexibility. As long as other project debt is on a subordinate lien, the WIFIA loan can also be placed on a subordinate lien at the same price as a senior lien. Furthermore, the WIFIA program can work with the borrower to slot the WIFIA loan within the borrower's existing indenture, simplifying debt monitoring. The WIFIA program can accept multiple types of revenue pledges, including system revenues, general obligation bonds, or taxes.
- **Amortization and Draw Schedule Adjustments:** After loan closing, borrowers might be interested in adjusting their loan amortization and draw schedules to address schedule or project changes. The WIFIA program will work with borrowers who request restructuring of amortization and draw schedules if there are changes to project costs, schedule, or funding sources. This option helps borrowers wrap WIFIA loans around other funding sources and create a flexible repayment schedule that meets their needs.

5.6 I AM WAITING FOR GRANT FUNDING.

Over the next 20 years, there will be more than 1 trillion dollars in water infrastructure needs across the country. To address these critical projects, grant funding is typically the first option. However, grant funding is limited, competitive, and can take a long time to reach communities. Given these obstacles, filling gaps with low-cost water infrastructure financing is an alternative option.

HOW CAN WIFIA FUNDING HELP?

The WIFIA program offers several solutions to help communities keep moving forward with their necessary water infrastructure projects, even while seeking or waiting for grant funding. Borrowers can take advantage of efficient co-funding, the option to secure other funding throughout the project, the ability to draw only the funds needed, and no-penalty prepayment.

- **Variety of Co-funding Options:** The WIFIA program was designed to be a supplemental lender and pair well with other types of water infrastructure financing. WIFIA loans can be co-funded with State Revolving Fund loans, grants, bonds, or cash. Regardless of source and type, the co-funding programs work together to increase efficiency, reduce burden, and maximize benefits to communities.
- **Secure Other Funding During the Project:** WIFIA borrowers always have the option of securing additional funding sources, even after loan closing. This helps borrowers find the most advantageous funding strategy that works best for them.
- **Draw Funds as Needed:** WIFIA loans are an "up to" amount, and borrowers are not required to draw down all the funding – only what is needed. This is helpful for borrowers that might secure other funding sources, including grants, after closing the WIFIA loan. There are also no draw requirements, and borrowers can request reimbursement on their schedule. Borrowers can request disbursements as often as once per month but can also request a single disbursement up to one year after project completion.
- **No-penalty Prepayment:** Borrowers have the option to prepay their WIFIA loans at any time with no penalty. This can help borrowers who secure other funding during the project.

5.7 I NEED HELP NAVIGATING THE FUNDING PROCESS.

Outside funding is typically needed to address large water infrastructure projects, but navigating the funding process can be daunting. Unless there are staff dedicated to securing and complying with funding requirements, communities might decide to defer projects until a later date. Postponing projects can be risky and lead to larger, more complex projects in the future.

HOW CAN WIFIA FUNDING HELP?

The WIFIA program can help communities navigate the funding process from beginning to end. The WIFIA team provides comprehensive support during all stages of the process and can also coordinate with other funding programs to streamline processes and eliminate duplicative efforts.

- **Wide Range of Eligibilities:** The WIFIA program can provide funding to public and private borrowers for their drinking water, wastewater, and stormwater infrastructure projects. WIFIA funding may be used to pay for planning, design, construction, and some financing costs. Borrowers can also use WIFIA funding to address multiple types of projects at once (e.g., wastewater and stormwater). This wide range of eligibilities makes it easier for communities to receive WIFIA funding for all their various water infrastructure needs.
- **Dedicated Loan Management Team:** The WIFIA team can provide support and technical assistance to communities even before submission of their [Letter of Interest](#). This help continues throughout the project selection, application, loan closing, and post-loan closing processes. Communities have a dedicated team to answer questions and make the process as efficient as possible.
- **Coordination with Other Funders:** To minimize complications, the WIFIA program works with co-funding entities to create efficient processes for borrowers. For example, the WIFIA program's environmental team works with other co-funders to determine a lead agency, share documentation, and perform one environmental review, instead of a separate environmental review for each funding source.
- **Streamlined Reporting Requirements:** The WIFIA program can accept financial, technical, and environmental reporting documentation required for other funding sources. This flexibility saves the community time and resources by limiting the need to generate multiple reports.

5.8 I NEED TO MOVE QUICKLY.

Communities often have water infrastructure projects that need to happen as soon as possible and capital improvement plans with multiple projects to complete over the next several years. With all the projects that need to happen, moving quickly is often a top priority. However, navigating various funding programs and their timeframes and requirements can be a challenge and make it difficult to get started on projects.

HOW CAN WIFIA FUNDING HELP?

The WIFIA program has options to move the funding process along as expeditiously as possible, with shorter loan closing timeframes, options for planning and design loans and project bundling, and quick post-loan closing disbursement processes. These flexibilities help accelerate the funding process and water infrastructure projects:

- **Expeditious Loan Closing:** The WIFIA program moves at the borrower's speed and will work to close loans that fit the borrower's schedule. Historically, the WIFIA program has been able to close loans in as little as 4 months from application submission.
- **Planning and Design Loans:** It can sometimes be difficult for communities to secure funding for projects that are in the conceptual phase. To address this, the WIFIA program offers planning and design-only loans. These loans can help borrowers move forward with projects at a quicker pace. Several WIFIA borrowers have taken advantage of planning and design-only loans to conduct preliminary analyses and evaluate alternatives for their water infrastructure needs.
- **Project Bundling Options:** The WIFIA program has a few options for bundling projects, depending on borrower needs and timeframes:
 - Borrowers can [bundle several projects into a single loan](#). Bundling projects streamlines processes and saves borrowers time and money by only closing one loan, instead of separate loans for each individual project. This option can be extremely advantageous for communities looking to complete a large, complex projects.
 - The WIFIA program also offers a [master agreement](#), which is an umbrella contract between EPA and a borrower that provides an upfront commitment of loan proceeds and a common set of legal and financial terms under which a borrower can close multiple WIFIA loans over time. Master agreements are helpful for borrowers with several projects that are in different phases, have different schedules, or are in different stages of the environmental review process. By evaluating the credit and negotiating the legal framework upfront, the WIFIA program and the borrower can close each loan under a master agreement faster and for lower cost than multiple loans outside of a master agreement.
- **Efficient Post-Closing Reimbursement:** After loan closing, borrowers have the option of requesting reimbursement as frequently as once per month. Upon receiving a complete reimbursement request, the WIFIA program disburses funds within 15 days. Additionally, invoices submitted during reimbursement can be "approved to pay" and don't need to be paid in advance. These benefits get borrowers money when they need it and help progress their projects.

5.9 I NEED TO ADDRESS A REGIONAL/MULTI-JURISDICTIONAL PROBLEM.

Some water challenges, like drought, have broad impacts that affect entire regions of the country. Tackling the problem at a regional level provides for more holistic and long-term solutions versus each individual community trying to solve the problem alone. However, it can be difficult to find funding for a regional entity, while also addressing the needs of the individual communities within the region.

HOW CAN WIFIA FUNDING HELP?

The WIFIA program can provide financing to help scale regional solutions through the ability to fund a wide range of borrowers and projects and work within a variety of legal structures. Furthermore, borrowers have the option to bundle projects over a longer timeframe.

- **Wide Range of Eligibilities:** The WIFIA program can provide funding to public and private borrowers, including public-private partnerships, joint powers authorities, and other unique entities. WIFIA funding may be used to pay for planning, design, construction, and some financing costs. Borrowers can also use WIFIA funding to address multiple types of projects at once (e.g., wastewater and stormwater). This wide range of eligibilities makes it easier for

regional entities to receive WIFIA funding for several projects across the region at once, limiting the need for communities to individually seek funding for smaller-scale projects.

- **Legal Structure Flexibility:** The WIFIA program can also work within a variety of legal structures between the regional partners. This flexibility allows the WIFIA program to fit into the framework that works best for the partners, including lending to multiple agencies for the same project, lending to regional authorities, or lending to special purpose vehicles created for single project purposes, all of which save time and money for the communities.
- **Expanded Project Costs Percentage:** The WIFIA program can fund up to 49 percent of a borrower's project costs (or up to a maximum of 80 percent for small communities of 25,000 or less people). Multi-jurisdictional entities comprised of small and large borrowers are eligible for loans of more than 49 percent of project costs (based on the small member(s) pro-rata share).
- **Project Bundling Options:** The WIFIA program has a few options for bundling projects, depending on the regional entity's needs.
 - Borrowers can [bundle several projects into a single loan](#). Bundling projects streamlines processes and saves borrowers time and money by only closing one loan, instead of separate loans for each individual project. This option can be extremely advantageous for communities looking to complete large, complex projects.
 - The WIFIA program also offers a [master agreement](#), which is an umbrella contract between EPA and a borrower that provides an upfront commitment of loan proceeds and a common set of legal and financial terms under which a borrower can close multiple WIFIA loans over time. Master agreements are helpful for borrowers with several projects that are in different phases, have different schedules, or are in different stages of the environmental review process. By evaluating the credit and negotiating the legal framework upfront, the WIFIA program and the borrower can close each loan under a master agreement faster and for lower cost than multiple loans outside of a master agreement.

Table 5-1: Summary of WIFIA Loan Features to Address Borrower Challenges

Borrower Challenge	WIFIA Loan Features			
I need to limit impacts on rate payers.	Sculpted repayment schedule	Wrap WIFIA loan around other debt		
I have a “once-in-a-generation” project.	Sculpted repayment schedules	Lock in funding early	Project bundling options	
I am worried about rising costs.	Locked-in interest rate	Interest rate reset	Amortization and draw schedule adjustments	Ability to change project within a loan
I need to combine multiple sources to fund my project.	Variety of co-funding options	Secure other funding during project	Wrap WIFIA loan around other debt	Amortization and draw schedule adjustments
I can’t get what I need from traditional funding sources.	Interest rate set to AAA Treasury yields	Interest accrual flexibility	Works within existing debt structures	Amortization and draw schedule adjustments
I am waiting for grant funding.	Variety of co-funding options	Secure other funding during project	Draw funds as needed	No-penalty prepayment
I need help navigating the funding process.	Wide range of eligibilities	Dedicated loan management team	Coordination with other funders	Streamlined reporting requirements
I need to move quickly.	Expeditious loan closing	Planning and design loans	Project bundling options	Efficient post-closing reimbursement
I need to address a regional/multi-jurisdictional problem.	Wide range of eligibilities	Legal structure flexibility	Expanded project costs percentage	Project bundling options

SECTION 6: LOAN PROCESS SUMMARY

SECTION 6: LOAN PROCESS SUMMARY

This section provides a high-level overview of the loan process for WIFIA program loans. Figure 6-1 illustrates the three phases of the loan process: project selection, project approval, and project monitoring. Detailed information on each phase of the loan process is included in sections 7 through 9.

Figure 6-1: WIFIA Program Loan Process



Phase 1 - Project Selection: Each year, the WIFIA program receives an appropriation that replenishes the amount of funding that can be made available to prospective borrowers. EPA announces this funding in a Notice of Funding Availability (NOFA) published in the [Federal Register](#) and the [WIFIA program website](#). In the letter of interest (LOI), prospective borrowers provide information that EPA uses to determine the project's eligibility, creditworthiness, engineering feasibility, and impact on statutory scoring criteria. In addition, the Office of Management and Budget (OMB) evaluates whether the project complies with [budgetary scoring rules](#). Based on these reviews, EPA selects projects which it intends to fund and invites them to continue to the application process.

Phase 2 - Project Approval: An invitee then submits an application for a WIFIA loan. Using this information, the WIFIA program conducts due diligence of the borrower and project(s), including a question-and-answer period. The WIFIA program proposes terms and conditions of the loan(s) for the project and negotiates with the applicant to develop a mutually agreeable set of loan documents. Prior to closing, the WIFIA program must receive approval from the EPA Administrator or their designee and OMB. At closing, EPA and the applicant execute the term sheet, which obligates the WIFIA funds, and the loan agreement, which is the binding legal document that allows the borrower to receive WIFIA funds.

Phase 3 - Project Monitoring: Following loan closing, borrowers must meet several requirements to receive funding and remain in compliance with the loan agreement. Post-loan closing activities generally fall into in three categories: disbursements, loan servicing, and loan monitoring. The executed loan agreement will identify specific requirements.

SECTION 7: PROJECT SELECTION

SECTION 7: PROJECT SELECTION

This section describes the first phase of the WIFIA program loan process, which includes the release of the NOFA, the submission of LOI, the evaluation of LOI, and the selection of projects invited to apply.

Prospective borrowers may contact the WIFIA program by email (wifia@epa.gov) during this phase of the loan process.

Figure 7-1: WIFIA Program Loan Process Phase 1 - Project Selection



7.1 NOTICE OF FUNDING AVAILABILITY (NOFA)

Annually, EPA will publish the NOFA in the [Federal Register](#) and on the [WIFIA program website](#). Each NOFA will specify the amount of additional funding available to support WIFIA loans, the weight given to each selection criterion, and instructions for submitting a LOI. EPA may also include in the NOFA additional eligibility requirements, set-asides, or priorities as mandated by the appropriating legislation.

Like a bank, the WIFIA program has funding available on an ongoing basis. This allows prospective borrowers to request financing on their schedule. A rolling selection process allows EPA to provide year-round access to WIFIA funding and quicker selection decisions to prospective borrowers. In addition, under this iterative, rolling selection process, the WIFIA program can provide technical assistance to prospective borrowers, particularly small communities, that need support to complete their LOI package.

7.2 LETTER OF INTEREST SUBMISSION

In the LOI, prospective borrowers provide the WIFIA program with enough information to:

- Validate the eligibility of the prospective borrower and the proposed project;
- Perform a preliminary creditworthiness assessment;
- Perform a preliminary engineering feasibility analysis; and
- Evaluate the project against the selection criteria identified in the NOFA.

Prospective borrowers must use the LOI form provided on the [WIFIA website](#) to complete their LOI. 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.

For the LOI to be deemed complete and considered for selection, prospective borrowers must submit the LOI and all source documents referenced in the LOI to EPA. Source documents may be draft or preliminary. Please provide the most recent version available at the time of submission. Prospective borrowers may wish to assert a business confidentiality claim covering part or all the information included in the LOI form or referenced source material. Further information, including a definition of “confidential business information (CBI),” the process for asserting confidentiality, and the information EPA will require from a prospective borrower to substantiate the claim, can be found in Appendix E. Please be aware that EPA reserves the right to request substantiation at any time following a business confidentiality claim.

To submit the documents:

1. Upload the documents to EPA’s SharePoint site. To be granted access to the SharePoint site, prospective borrowers must request access to SharePoint by emailing wifia@epa.gov; and
2. Confirm that the complete LOI package has been uploaded to the SharePoint site by sending an email to wifia@epa.gov.

EPA will provide a confirmation email.

If EPA receives a LOI that does not contain all the information needed to complete its evaluation, it will notify the prospective borrower and provide feedback on steps to take and/or documents to develop for the LOI package to be deemed complete and ready for review by the WIFIA staff.

7.3 LETTER OF INTEREST EVALUATION

The WIFIA program will select projects on an ongoing basis that satisfy the eligibility requirements and selection criteria scoring requirements as described in the NOFA to be invited to apply. 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 funding. This helps to ensure that prospective borrowers do not expend time and financial resources, including incurring fees associated with applying, for a loan that is not likely to proceed to financial close.

The WIFIA statute requires that the WIFIA program evaluate eligible projects using established selection criteria. The WIFIA selection criteria are divided into three categories that represent critical considerations for selecting projects: Borrower Creditworthiness, Project Readiness, and Project Impact. Each LOI will be evaluated for the extent to which the project satisfies the criteria listed below for each category. To satisfy the overall category review, it is not necessary to satisfy all the criteria for each category. For the Project Impact category, WIFIA staff will score LOI based on the points indicated in the NOFA.

EPA will review that score, in combination with the results of the other categories to make their selection decision. All projects that satisfy category-level review for all three categories will be invited to apply for a WIFIA loan. The WIFIA program evaluates the criteria as described in Appendix C. Table C- 1, located in Appendix C, provides a crosswalk between the LOI and the selection criteria outlined below.

ELIGIBILITY SCREENING

Upon receipt of a LOI, the WIFIA program confirms that the prospective borrower is an eligible entity as described in Section 2.1 and the proposed project is an eligible project as described in Section 2.2.

Eligible projects are concurrently evaluated for borrower creditworthiness, project readiness, and project impact, as described below.

BORROWER CREDITWORTHINESS

The WIFIA program will perform a preliminary borrower creditworthiness assessment. The preliminary creditworthiness assessment has two purposes:

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

Prospective borrowers should describe the proposed security (e.g., water utility revenue or general obligation) and priority of the payment (senior or subordinate to existing debt). If available, they should provide an existing credit rating on the same security and priority as the WIFIA loan. If a credit rating on the same security and priority as the WIFIA loan is not available, then prospective borrowers must submit a financial pro forma and three years of audited financial statements. More details on what should be included in the pro forma is available in the LOI form and the sample financial pro forma, which are available on the [WIFIA program website](#). 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.

The borrower creditworthiness criteria are as follows:

1. The likelihood that assistance under [WIFIA] would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.
2. The extent to which the project financing plan includes public or private financing in addition to assistance under [WIFIA].
3. The extent to which assistance under [WIFIA] reduces the contribution of Federal assistance to the project.
4. The amount of budget authority required to fund the Federal assistance made available under [WIFIA].
5. Preliminary creditworthiness assessment.

PROJECT READINESS

The WIFIA program will perform a preliminary review to evaluate whether the project is technically and environmentally feasible and ready to proceed based on the information submitted with the LOI. The purpose of this review is not to provide input on project design but to determine if there is a planned path forward for the proposed project, including anticipated schedule and costs. EPA will assess whether the project has an appropriate level of environmental readiness at the time of the LOI to reasonably complete an environmental review. EPA does not complete an environmental review during the LOI phase; further, completion of an environmental review is not a prerequisite for submitting a LOI, being invited to apply for a WIFIA loan, or submitting an application.

The project readiness criteria are as follows:

1. The readiness of the project to proceed toward development, including a demonstration by the obligor 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 Federal assistance is obligated for the project under [WIFIA].

2. Preliminary engineering feasibility analysis.

PROJECT IMPACT

The WIFIA program evaluates project impact to determine if the proposed project furthers EPA's mission of protecting public health and the environment and the intended goals of Congress in establishing the program. The WIFIA project impact 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 benefits, such as (1) the reduction of flood risk; (2) the improvement of water quality and quantity, including aquifer recharge; (3) the protection of drinking water, including source water protection; and (4) the support of international commerce.
2. The extent to which the project (1) protects against extreme weather events, such as floods or hurricanes; or (2) helps maintain or protect the environment.
3. The extent to which the project serves regions with significant energy exploration, development, or production areas.
4. The extent to which a project serves regions with significant water resource challenges, including the need to address (1) water quality concerns in areas of regional, national, or international significance; (2) water quantity concerns related to groundwater, surface water, or other water sources; (3) significant flood risk; (4) water resource challenges identified in existing regional, State, or multistate agreements; or (5) water resources with exceptional recreational value or ecological importance.
5. The extent to which the project addresses identified municipal, State, or regional priorities.
6. 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.
7. The extent to which the project serves economically stressed communities, or pockets of economically stressed rate payers within otherwise non economically stressed communities.
8. The extent to which the project reduces exposure to lead in the nation's drinking water systems or addresses emerging contaminants.
9. The extent to which the project uses new or innovative approaches.

In addition to the project impact score, EPA is required by 33 U.S.C. § 3902(a) to "ensure a diversity of project types and geographical locations."

7.4 OMB BUDGETARY SCORING DETERMINATION

Prospective borrowers will be assessed by OMB to determine compliance with budgetary scoring rules, a process that will be conducted in parallel to EPA's LOI evaluation process outlined in section 7.3. The WIFIA program will provide OMB with responses to two initial screening questions and sixteen scoring factors to assist OMB to make this determination. The questions may be found in Federal Register publication: Water Infrastructure Finance and Innovation Act Program (WIFIA) Criteria Pursuant to

Public Law 116-94 85 FR 39189, June 30, 2020²¹. If the prospective borrower has additional documentation that would help the WIFIA program answer the questions and OMB make this determination, the prospective borrower may submit it as an attachment to the LOI. The WIFIA program may contact prospective borrowers after the LOI is submitted if clarification is needed to answer the budgetary scoring determination questions. EPA may not select a borrower and project to apply until OMB provides a determination that the project is in compliance with budgetary scoring rules.

7.5 PROJECT SELECTION

At the end of the analysis, the WIFIA program determines whether the project satisfies each category of criteria (Borrower Creditworthiness, Project Readiness, and Project Impact). Based on that analysis, the WIFIA program recommends whether the project should be invited to apply. Selected projects will typically be invited to apply for a WIFIA loan in the amount requested in the LOI.

The WIFIA program will provide prospective borrowers written notifications inviting them to submit an application for a WIFIA loan or informing them that they have not been selected. Selected entities will receive information about the location of the latest application materials. The WIFIA program will post basic information about the selected projects on its website. Such information will include prospective borrower name, project name, state, project description, and approval status.

Prospective borrowers that are invited to apply and do not plan to submit an application for WIFIA loans are asked to notify the WIFIA program immediately to allow other prospective borrowers to be invited.

An invitation to apply for a WIFIA loan 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, OMB's determination of budgetary scoring rule compliance, and the availability of funds at the time at which all necessary recommendations and evaluations have been completed. However, the purpose of EPA's LOI review is to pre-screen prospective borrowers to the extent practicable. It is expected that EPA will only invite projects to apply if it anticipates that those projects can obtain a WIFIA loan.

7.6 REVIEW TIMELINE

The project selection process, from submission of a complete LOI package through inviting the prospective borrower to submit an application, typically takes around four (4) weeks, once all outstanding questions have been addressed. For more complex LOI or unique situations, the project selection process can take longer. The WIFIA team will work with prospective borrowers to make the project selection process as expeditious as possible.

²¹ <https://www.govinfo.gov/content/pkg/FR-2020-06-30/pdf/2020-13889.pdf>

SECTION 8: PROJECT APPROVAL

SECTION 8: PROJECT APPROVAL

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

Figure 8-1: WIFIA Program Loan Process Phase 2 - Project Approval



8.1 PRE-APPLICATION

After the WIFIA program notifies the prospective borrower that they are invited to apply, the prospective borrower will begin working with a member of the WIFIA origination team, who is the primary point of contact until application submission. The origination team member schedules an introductory call to discuss the project, explain the WIFIA application process, and answer any questions. The prospective borrower will also provide the origination team member with a timeframe for when they plan to submit the application. This origination team member and the prospective borrower will work together pre-application submission to ensure a successful submission. After invitation to apply, prospective borrowers have one year to submit their WIFIA loan application.

8.2 APPLICATION SUBMISSION

The second phase of the project review process begins when a prospective borrower who has been invited to apply for a WIFIA loan submits a complete application, including a preliminary rating opinion letter and the application down payment.

In the application, a prospective borrower updates information submitted in the LOI and provides the WIFIA program with the materials necessary to evaluate the creditworthiness of the prospective borrower and project for the proposed WIFIA loan and the engineering due diligence, including federal compliance. Applicants may wish to assert a business confidentiality claim covering part or all the information included in the application or referenced source material. Further information, including a definition of “confidential business information (CBI),” the process for asserting confidentiality, and the information EPA will require from an applicant to substantiate the claim, can be found in Appendix E.

Please be aware that EPA reserves the right to request substantiation at any time following a business confidentiality claim.

Applicants should submit completed applications that include all components on the application checklist. The completed application package must be uploaded to the WIFIA program's SharePoint site. To be granted access to the WIFIA SharePoint site, the applicant may email the origination team member with the names and emails of all staff that need access.

RATING OPINION LETTERS

Applicants are required to provide both a preliminary and final credit rating letter from a NRSRO. The preliminary rating is described below, and the final rating is described in Section 8.4.

PRELIMINARY RATING

As a measure of a project's creditworthiness, the WIFIA program requires each applicant to provide, at the time of application, a preliminary rating opinion from at least one NRSRO indicating that the senior obligations of the project (which may be the federal loan) have the potential to achieve an investment-grade rating.²² The WIFIA program will not consider an application complete until an applicant has provided a preliminary rating opinion letter, or preferably, a detailed rating article from an NRSRO website. For the preliminary rating, the WIFIA program accepts an existing rating on bonds that are on parity with the proposed WIFIA loan and considers a comparable amount of debt.

The preliminary rating opinion letter is a credit assessment from an NRSRO that provides a preliminary indication of the project's overall creditworthiness and specifically addresses the potential of the project's senior debt obligations to achieve an investment-grade rating and the default risk of the WIFIA loan. Since the indicative rating is performed at an early stage of application, the credit analysis is not expected to include comprehensive information about the loan structure. Instead, the indicative rating should provide an opinion about the potential to reach a credit rating based on a set of assumptions. The indicative rating may be based on the best information available, and assumptions provided by the applicant that may change during negotiation.

FINANCING COSTS

The WIFIA program requires each applicant to reimburse the federal government for its cost of providing a loan and the costs of retaining expert firms needed to review its application materials, negotiate, and close the loan agreement. These costs²³ can be financed by the WIFIA loan as eligible project costs.

- **Application Down Payment:** For projects serving communities of less than 25,000 people, the application down payment is \$25,000. For all other applicants, the down payment is \$100,000. This down payment is payable upon submission of the application, without which the application will not be evaluated. The application down payment goes toward any external counsel used to assess the project and loan conditions and is credited to the credit processing fee (see below). If no application is submitted, the application down payment will be returned or refunded. If the applicant decides to withdraw during the application review, the unused

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

²³ <https://www.federalregister.gov/documents/2017/06/28/2017-13438/fees-for-water-infrastructure-project-applications-under-wifia>

portion of the down payment will be returned.

- **Credit Processing Fee:** The credit processing fee is payable after the execution of the loan agreement. It reimburses EPA for its costs to provide a loan. The credit processing fee varies for each transaction and is determined by a variety of factors, including the complexity of the transaction, borrower history with the WIFIA program, and the extent of legal negotiations. After the application down payment, the WIFIA program estimates the remaining costs due after loan closing to be between \$50,000–\$150,000 per applicant, a portion of which may be waived at the discretion of the WIFIA program.

In addition to the fees required as part of the application process, the WIFIA program may charge an optional supplemental fee when deemed necessary²⁴.

These fees will be updated in the Federal Register, as appropriate.

8.3 APPLICATION EVALUATION AND UNDERWRITING

After receiving a complete application, the WIFIA program assigns a transaction team consisting of an underwriter, engineer, environmental reviewer, attorney, and risk manager to evaluate the transaction. This transaction team conducts financial, technical, and environmental reviews of the project, the applicant, and the applicant's financing framework. The WIFIA program may retain the services of financial advisors, outside legal counsel, and engineering firms during the application evaluation through closing. Through the credit processing fee, the applicant will reimburse EPA for the cost to underwrite the loan that exceeds the application down payment.

APPLICATION INTAKE

The WIFIA program will first validate that the application submitted by the applicant contains all the requested elements and request missing documents, as necessary. For an application to proceed to evaluation, the applicant must pay the application down payment, provide the preliminary rating opinion letter from a NRSRO, and submit a signed application. The WIFIA program will also confirm that the application continues to meet the eligibility requirements.

DETERMINATION OF CREDITWORTHINESS

By statute, every project and borrower that receives a WIFIA loan must be creditworthy. During the creditworthiness review, the WIFIA transaction team evaluates the risk to the government by lending to the prospective borrower with the requested loan structure and contemplates potential mitigants to bring the risks to an acceptable level. Since EPA will likely hold the loan to its maturity, the WIFIA program needs to consider risks that could emerge throughout the repayment term. To do this, the team reviews the detailed information provided, undertakes quantitative analysis using a financial model, and develops its own internal risk rating.

The WIFIA program will base the creditworthiness determination on a review of the following:

- Terms, conditions, financial structure, and security features of the proposed financing.

²⁴ Although it is unlikely that a scenario will arise under which it would assess this fee, the WIFIA program can offer an optional supplemental fee. This will allow an applicant to "buy down" the credit subsidy required for the loan. This could allow an applicant to proceed to closing if sufficient credit subsidy is not otherwise available. This fee will only be charged upon agreement by an applicant.

- 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.

DETERMINATION OF CREDIT TYPE AND LOAN ATTRIBUTES

In general, the WIFIA program will review every proposed loan 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:** 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:
 - A projection of revenue generation based upon reasonable assumptions that would provide sufficient coverage to repay the proposed loan.
 - By statute, the loan must be repayable in whole or in part from a dedicated source.
 - The capital structure for a project receiving a WIFIA loan should allow for adequate net cash flow after meeting all necessary obligations to ensure that the loan is reasonably insulated 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 applicant'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 applicant'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 and Counterparties:** The WIFIA program will evaluate the applicant 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 applicant 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.
- All participants 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 through the engineering due diligence process described below.
- **Loan-Specific Factors:** The WIFIA program will assess an applicant's other existing and proposed credit instruments based on the terms and conditions and attendant risk to the WIFIA loan. 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 loan.
 - 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 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.

ENGINEERING DUE DILIGENCE

The WIFIA program will analyze the project and the system condition to determine if there are major technical risks that could impact the project or the pledged revenue stream. Projects implementing collaborative delivery methods (e.g., design-build, construction manager at risk) are reviewed similarly to traditional project delivery methods. The due diligence will include the following:

- **Technical Soundness:** The proposed project will meet its intended purpose, and any new or upgraded technologies implemented by the project are in line with standard industry practice. The WIFIA program will assess whether any emerging treatment technologies have been proven or piloted in the industry to evaluate technical soundness, but this assessment does not relieve the prospective borrower of the responsibility for project design.
- **Technical Risk Factors:** The project has identified implementation and operational risks and related mitigation measures. The WIFIA program will determine if there are any unmitigated risks that may impact the project's ability to complete construction on time and on budget.
- **Project Cost Estimates:** Project costs should be based on estimates that are provided as supporting documentation. The WIFIA program will assess the reasonableness of costs by evaluating estimation approaches, use of contingencies, and other cost factors to account for the existing status of a project component and market uncertainties.
- **Project Schedule:** The WIFIA program will assess the adequacy of project schedule when compared to the scope of the project, the stage of design, and the overall project plan. The

project schedule should also allot adequate time for environmental permits and crosscutter compliance.

- **Operation and Maintenance Plan Review:** The applicant must have an operation and maintenance (O&M) plan that reasonably accounts for the expected cost of operating and maintaining the project over a time period equal or greater than the length of the proposed WIFIA loan. As part of this requirement, the WIFIA program will evaluate the average useful life of the project against industry standards and assess the applicant's plan for ensuring an updated O&M manual to include O&M activities for new and upgraded assets.
- **Procurement Documents:** Procurement documents should have a complete statement of work to be performed and a clear explanation of the basis and method for awarding the contract. In addition, the WIFIA program will review these documents to ensure that federal requirements are appropriately incorporated.
- **System Condition Assessment:** When the WIFIA loan represents a material portion of the overall debt load on the system and/or substantially influences the prospective borrower's overall credit profile, the WIFIA program will ensure that the prospective borrower has adequately planned for addressing system improvement needs during the repayment period.

8.4 NEGOTIATION

Negotiation is an iterative process between the applicant and the WIFIA program. The WIFIA transaction team will propose terms and conditions for the loan considering requests in the application, its evaluation of potential risks through the life of the loan, and WIFIA program requirements, like certain reporting requirements and the delivery of credit ratings. The applicant should consider its ability to accept the WIFIA program's proposed terms and may respond with a counterproposal explaining what are preferred or needed changes to the terms. The WIFIA program will work with the applicant to develop highly customized terms for the applicant's needs. However, extensive negotiation could slow the process and result in a later closing date and a higher credit processing fee.

LOAN DOCUMENTS

A suite of documents will be developed during this phase of the process. A term sheet, loan agreement, and, if applicable, a master agreement are the primary WIFIA documents and, in most cases, developed in parallel and executed simultaneously at closing. The borrower will typically have documents generated as part of the transaction as well. The WIFIA program and the applicant will negotiate the specific language of the loan documents to accurately represent WIFIA program requirements. The timeframe for developing the loan documents is dependent on the complexity of the transaction, borrower driven timelines, and progress of the negotiations.

- **Term Sheet:** The term sheet is an agreement between EPA and the applicant that sets forth certain business terms and conditions of the WIFIA loan for the project, including statutory requirements.
- **Loan Agreement:** The loan agreement is the authoritative agreement between EPA and the borrower. It specifies all terms and conditions of the loan and authorizes the disbursement of WIFIA loan to the project.
- **Master Agreement:** In some cases, EPA and the borrower may enter into a Master Agreement (see Section 3.3).

FINAL RATING

The WIFIA statute requires that prior to execution of the loan agreement, each applicant provide the WIFIA program with a final rating opinion from a NRSRO indicating that the senior obligations of the project have an investment-grade rating.²⁵ The WIFIA implementation rule at 40 C.F.R. § 35.10040(b) further clarifies that the rating should provide commentary on the default risk of the WIFIA loan. Since the final rating is issued after terms and conditions are established and when final documents are drafted, the rating should reflect the specific credit terms of the transaction.

The final rating should preferably be a public rating. The credit assessment should specifically evaluate the WIFIA loan's default risk and should contemplate the full life of the WIFIA loan. In limited circumstances, the final rating requirement may be satisfied by an existing rating on bonds that are on parity with the proposed WIFIA loan. Questions about the rating requirements should be directed to the WIFIA transaction team.

Applicants should contact the WIFIA program with any questions regarding the rating process and the requirements for preliminary and final investment-grade credit rating opinions on the senior obligations and the WIFIA loan. 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.

8.5 APPROVAL

Following the evaluation step, the WIFIA program will begin its approval process, which includes review and approval from the WIFIA Credit Council, EPA Administrator, and OMB. During EPA's approval process, the applicant will complete its approval process.

8.6 LOAN CLOSING

For the WIFIA program to execute the loan agreement and disburse funds, the applicant must satisfy at a minimum any conditions precedent to closing, including but not limited to:

- The project's receipt of its Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion under NEPA. Compliance with other federal laws, regulations, and applicable planning requirements.
- Final rating as described in Section 8.4.
- Applicable financing documents.

The WIFIA program will schedule the closing once all the closing documentation has been finalized and it confirms that all conditions have been met. At closing, the WIFIA program and the applicant will execute the loan agreement, which is the binding legal document that allows the applicant to receive WIFIA funds. Upon execution of the loan agreement, the applicant, now a borrower, is subject to the credit processing fee, described in Section 8.2. The borrower receives an invoice for the credit processing fee approximately 60 days after closing. The WIFIA program will make a public announcement, including posting a project factsheet and updating the information in the [WIFIA Closed Loans table](#) on the WIFIA program's website, soon after closing.

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

8.7 REVIEW TIMELINE

After an entity is invited to apply, they have one year to apply. However, most selected projects should be able to apply in significantly less than a year. The WIFIA origination team will regularly communicate with applicants during the pre-application period. When the application, preliminary rating letter, and down payment are received, the WIFIA program begins the application evaluation process. Application evaluation is a cooperative process that involves back-and-forth discussion between the WIFIA program and the applicant. Depending on the project's complexity and financing structure, application evaluation will take approximately 1-3 months.

Following this evaluation, the WIFIA program and the applicant will negotiate the terms and conditions for the loan resulting in a mutually acceptable term sheet and loan agreement. This process may be quick or may be extensive. The WIFIA program can provide customized loan terms and work with applicants to develop innovative credit structures to help get projects off the ground. Each transaction's review will be tailored to reflect the complexity and risk of the project's credit. Table 8-1 lists examples of factors that would impact an applicant's loan closing timeframe.

Table 8-1: Examples of WIFIA Loan Closing Timeframe Factors

Faster Loan Closing	Longer Loan Closing
Projects for WIFIA loan are established and at 30-90 percent design	Projects not yet well defined
Borrower is highly rated and familiar with issuing debt	Revenue stream is riskier and requires substantial evaluation
Environmental studies and consultations complete or currently underway	Environmental impact of construction has not yet been determined and requires further studies
Borrower has dedicated person(s) to spearhead the WIFIA process and make decisions	Borrower requires significant third-party approvals/agreements outside of the loan process
Borrower largely agrees to template loan terms	Legal terms are extensively negotiated

SECTION 9: POST-CLOSING ACTIVITIES AND PROJECT MONITORING

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Following closing, borrowers must meet several requirements to receive funding and remain in compliance with the loan agreement. This section describes the post-closing activities involving WIFIA borrowers in three categories: disbursements, loan servicing, and loan monitoring. The executed loan agreement will identify specific requirements. Each borrower is assigned a Portfolio Manager, who is their point of contact following closing.

Figure 9-1: WIFIA Program Loan Process Phase 3 - Project Monitoring



9.1 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. To receive a disbursement, borrowers must submit a requisition form that will:

- Require borrowers to verify continued compliance with the loan agreement.
- Certify the disbursements are being made against incurred eligible project costs and in accordance with the terms of the loan agreement.
- Confirm there have been no changes to the project plan or any material events and the representations and warranties included in the loan agreement are still true and correct, among other items.
- Provide supporting documents and invoices to be reviewed at the time of submission, so the WIFIA program can evaluate the costs for program eligibility, project allocability, and reasonableness. Examples of supporting documents include:
 - Signed and approved applications for payments (Note: Schedule of Items/Bid Tabulation is not necessary but may be requested at the discretion of the Portfolio Manager)
 - Approved Invoices; contractor Form G702 (Application and Certificate for Payment) or equivalent
 - Signed by the borrower's authorized representative, borrower's consulting engineer (A/E), or authorized agent.

Borrowers may request WIFIA fund disbursements as frequently as once per month. The WIFIA program's goal is to have disbursement available in the borrower's account 15 calendar days after

receiving a disbursement request. Disbursements will be on the 1st or 15th of the month as specified in each loan agreement.

9.2 LOAN SERVICING

The WIFIA program charges borrowers an annual fee for loan servicing activities associated with each WIFIA loan, such as credit accounting, collections, maintenance of documents, financial reporting, and construction monitoring. EPA will also collect a set-up fee equal to the annual servicing fee at loan closing to cover the cost of establishing the borrower's account. In the period prior to substantial completion of the project, the annual servicing fee will range from \$10,000 to \$25,000. After substantial completion, the annual servicing fee is typically under \$10,000 for all borrowers. Loan servicing fees are updated annually based on inflation. The WIFIA program may charge an enhanced monitoring fee for loans that have higher credit risk and/or require enhanced monitoring. The WIFIA program may retain outside assistance to perform loan servicing for WIFIA loans.

9.3 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. 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 way the WIFIA program plans to implement these requirements.

LOAN MONITORING FUNCTIONS

The WIFIA program monitors the loans 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 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.

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 loan 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 domestic preference requirements, the Davis-Bacon wage requirement, environmental statutes (e.g., NEPA), and other requirements as set forth in the loan agreement. The WIFIA program is responsible for coordinating periodic site visits and performing documentation audits to verify that projects receiving WIFIA funding comply with federal requirements. To the extent possible, these site visits occur at the

same time as construction inspections. Typical compliance requirements verification that the WIFIA program will undertake include:

- Domestic preference: Inspect certification records and spot-check installed products for compliance.
- Davis-Bacon: Collect certifications of compliance forms, ensure that the borrower has collected weekly payroll reports, examine payroll reports to ensure consistency with project size and progress, ensure that laborers and mechanics are being paid weekly, ensure that job types seem consistent with project type and phase of construction, ensure that the borrower has collected statements of compliance for all weeks of construction, review completed interview forms, ensure that apprentices and trainees are verified to be registered in acceptable programs, ensure that wage determinations and Davis-Bacon posters are posted in an appropriate location.
- NEPA: Verify the implementation of environmental mitigation measures.

As part of compliance management, the WIFIA program reviews and approves 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.

Additional information on these compliance requirements is available on the WIFIA program website: <https://www.epa.gov/wifia/wifia-federal-compliance-requirements>.

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 meeting statutory requirements while mitigating risk and costs to the taxpayer. As such, the WIFIA program collects data from borrowers that will enable the assessment of the program's outputs (e.g., loans issued, disbursements), outcomes (e.g., interest payments savings, private sources leveraged, accelerated projects), and impacts (e.g., amount of water recycled, recharged, or redirected).

LOAN MONITORING TOOLS

Periodic Reporting: The WIFIA program requires that borrowers submit financial condition reports to:

- Provide an oversight tool for ensuring each borrower's compliance with the provisions of the loan agreement,
- Monitor the overall status of the project and the WIFIA program, and
- Assist it in identifying any changes to the credit risk posed to the federal government under individual loan agreements.

WIFIA loan agreements will specify scheduled (e.g., monthly, quarterly, annual, or project milestone) reporting requirements, as well as any other periodic reporting requirements. These reporting requirements are included in the loan agreement and are tailored to the characteristics and risks of the project and the borrower. Examples are presented in Table 9-1 below.

Table 9-1: Oversight and Monitoring Documentation

Example of Loan Monitoring Documentation*
Annual Financial Planning and Report <ul style="list-style-type: none"> • Updates to the project or system financing plans • Updated financial model or pro-forma • Audited financial statements • Rating opinion letter (as available) • Project Oversight and Monitoring (typically quarterly) • Updates on project development, design, and construction • Amount of total project costs expended and estimated to be required to complete the project • Assessment of the overall construction progress • Changes to the substantial completion date • Updates to the project schedule Timely Updates on Material Events

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

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 loan agreement to provide ongoing financial and project information not only during construction, but so long as the WIFIA loan is outstanding and/or until the debt obligation to the federal government is fully repaid. In each loan 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, in accordance with their individual loan agreement.

Construction Monitoring Site Visits: The WIFIA program will conduct site visits following the execution of the loan agreement. These site visits will primarily monitor construction progress made by borrowers and will also serve to verify compliance with overall federal requirements and loan-specific requirements. 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 may conduct 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 loan agreement.

APPENDIX A: ACRONYMS

APPENDIX A: ACRONYMS

Table A-1 defines acronyms that are commonly used throughout this handbook.

Table A-1: Acronyms

Acronym	Definition
C.F.R.	Code of Federal Regulations
EPA	United States Environmental Protection Agency
FONSI	Finding of No Significant Impact
LOI	Letter(s) of Interest
NEPA	National Environmental Policy Act of 1969
NOFA	Notice of Funding Availability
NRSRO	Nationally Recognized Statistical Rating Organization
OMB	Office of Management and Budget
OW	Office of Water
P.L.	Public Law
ROD	Record of Decision
SRF	State Revolving Fund
SWIFIA	State Infrastructure Financing Authority WIFIA Program
U.S.C.	United States Code
WIFIA	Water Infrastructure Finance and Innovation Act of 2014

APPENDIX B: DEFINITIONS

APPENDIX B: DEFINITIONS

Table B-1 defines relevant terms used throughout this handbook.

Table B-1: Definitions

Term	Definition
Administrator	Administrator of the U.S. Environmental Protection Agency.
Applicant	An entity invited to apply for a WIFIA loan following LOI review.
Borrower	An eligible entity primarily liable for payment of the principal of or interest on a WIFIA loan.
Federal Credit Instrument	A secured loan or loan guarantee authorized to be made available under 33 U.S.C. §§ 3901-3914 with respect to a project.
Investment-Grade Rating	A rating category of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a nationally recognized statistical rating organization (NRSRO) to project obligations offered into the capital markets.
Loan 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.
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, other than a federal credit instrument.
Prospective Borrower	An eligible entity seeking a WIFIA loan.
Publicly Sponsored	The prospective borrower can demonstrate, to the satisfaction of the Administrator, 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. Support can be shown by 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.
Secured Loan	A direct loan or other debt obligation (including a note, bond, debenture, and sale or lease financing arrangement) issued by a borrower and funded by the Administrator in connection with the financing of a project under 33 U.S.C. § 3908.

Term	Definition
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). Commonly known as the State Revolving Fund (SRF) program.
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 designated portion thereof can be used for its intended use.
Term Sheet	A contractual agreement between the EPA and a prospective borrower (and lender, if applicable) that sets forth the key business terms and conditions of a Federal loan.
WIFIA Credit Assistance	A secured loan or loan guarantee authorized to be made available under the WIFIA program.

APPENDIX C: SELECTION CRITERIA

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 as established by statute, regulation, and the NOFA. For evaluation of requested loans from the WIFIA program, the selection criteria are divided into three categories that represent critical considerations for selecting projects: Project Impact, Project Readiness, and Borrower Creditworthiness. Following analysis by WIFIA program staff, a determination is made for each project. Projects will be selected if they satisfy the conditions of each selection category in order of completion of LOI reviews.

Information regarding how EPA will consider each selection criterion is announced in each NOFA. For the Project Readiness and Borrower Creditworthiness categories, LOI review includes review of the preliminary engineering and environmental feasibility analysis and preliminary creditworthiness assessment, as described in section 7.3.

The WIFIA program selection criteria are as follows:

PROJECT IMPACT

1. The extent to which the project is nationally or regionally significant, with respect to the generation of economic and public benefits, such as (1) the reduction of flood risk; (2) the improvement of water quality and quantity, including aquifer recharge; (3) the protection of drinking water, including source water protection; and (4) the support of international commerce. 33 U.S.C. § 3907(b)(2)(A); 40 C.F.R. § 35.10055(a)(1).
2. The extent to which the project (1) protects against extreme weather events, such as floods or hurricanes; or (2) helps maintain or protect the environment. 33 U.S.C. § 3907(b)(2)(F); 40 C.F.R. § 35.10055(a)(4); 40 C.F.R. § 35.10055(a)(5).
3. The extent to which a project serves regions with significant energy exploration, development, or production areas. 33 U.S.C. § 3907(b)(2)(G); 40 C.F.R. § 35.10055(a)(6).
4. The extent to which a project serves regions with significant water resource challenges, including the need to address (1) water quality concerns in areas of regional, national, or international significance; (2) water quantity concerns related to groundwater, surface water, or other water sources; (3) significant flood risk; (4) water resource challenges identified in existing regional, State, or multistate agreements; or (5) water resources with exceptional recreational value or ecological importance. 33 U.S.C. § 3907(b)(2)(H); 40 C.F.R. § 35.10055(a)(7).
5. The extent to which the project addresses identified municipal, State, or regional priorities. 33 U.S.C. § 3907(b)(2)(I); 40 C.F.R. § 35.10055(a)(8).
6. 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. 40 C.F.R. § 35.10055(a)(12).

7. The extent to which the project serves economically stressed communities, or pockets of economically stressed rate payers within otherwise non-economically stressed communities. 40 C.F.R. § 35.10055(a)(13).
8. The extent to which the project reduces exposure to lead in the nation's drinking water systems or addresses emerging contaminants. 40 C.F.R. § 35.10055(b).
9. The extent to which the project uses new or innovative approaches. 33 U.S.C. § 3907(b)(2)(D); 40 C.F.R. § 35.10055(a)(3).

PROJECT READINESS

1. The readiness of the project to proceed toward development, including a demonstration by the obligor 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 a Federal credit instrument is obligated for the project under [WIFIA]. 33 U.S.C. § 3907(b)(2)(J); 40 C.F.R. § 35.10055(a)(9).
2. Preliminary engineering feasibility analysis score. 33 U.S.C. § 3907(a)(2); 33 U.S.C. § 3907(a)(6); 40 C.F.R. § 35.10015(c); 40 C.F.R. § 35.10045(a).

BORROWER CREDITWORTHINESS

1. The likelihood that assistance under [WIFIA] would enable the project to proceed at an earlier date than the project would otherwise be able to proceed. 33 U.S.C. § 3907(b)(2)(C); 40 C.F.R. § 35.10055(a)(2).
2. The extent to which the project's financing plan includes public or private financing in addition to assistance under [WIFIA]. 33 U.S.C. § 3907(b)(2)(B); 40 C.F.R. § 35.10055(a)(10).
3. The extent to which assistance under [WIFIA] reduces the contribution of Federal assistance to the project. 33 U.S.C. § 3907(b)(2)(K); 40 C.F.R. § 35.10055(a)(11).
4. The amount of budget authority required to fund the Federal credit instrument made available under [WIFIA]. 33 U.S.C. § 3907(b)(2)(E).
5. Preliminary creditworthiness assessment score. 33 U.S.C. § 3907(a)(1); 40 C.F.R. § 35.10015(c); 40 C.F.R. § 35.10045(a)(1); 40 C.F.R. § 35.10045(a)(4); 40 C.F.R. § 35.10045(b).

HOW DO PROSPECTIVE BORROWERS ADDRESS SELECTION CRITERIA?

As noted in Section 7.2, prospective borrowers provide information in their LOI that allows the WIFIA program to evaluate their request in respect to the selection criteria above. The prospective borrower provides key engineering and credit information in Section B and C of the LOI, and in [Section D of the LOI](#), the prospective borrower describes the potential benefits to be achieved by the project that would be financed with WIFIA assistance. Because the selection criteria encompass a wide range of factors, it is not expected that most projects will be able to fully address all of them. However, the prospective borrower should make their best case to EPA and demonstrate how financing their projects will help the WIFIA program meet its goals. In responding, the prospective borrowers should provide specific details, and, when applicable, reference supporting documentation.

PROJECT IMPACT

CRITERION 1: NATIONAL OR REGIONAL SIGNIFICANCE

The extent to which the project is nationally or regionally significant, with respect to the generation of economic and public benefits, such as (1) the reduction of flood risk; (2) the improvement of water quality and quantity, including aquifer recharge; (3) the protection of drinking water, including source water protection; and (4) the support of international commerce. 33 U.S.C. § 3907(b)(2)(A); 40 C.F.R. § 35.10055(a)(1).

EPA will evaluate the quality and extent to which the project can benefit the economy and public for a region or the nation. Projects will be differentiated based on the scope of their impact.

If applicable to their projects, prospective borrowers can demonstrate improvement to economic conditions and public benefits by providing the following information:

- Economic growth supported by the project, such as increased revenues, construction and post-construction job creation, keeping or attracting new industries, etc. (Q. D-1)
- Voluntary procedures to promote domestic preference for products used in construction (Q. D-2)
- How the project supports international commerce. (Q. D-3)
- How the project protects human health and the environment, including drinking water protection, source water protection, water quality, and water quantity (Q. D-4)

In responding to the questions, the prospective borrower should demonstrate how the project benefits the project's service area and, if applicable how the project or components of the project can benefit regions which are not directly served by the project, multiple states, or the nation. Projects that have a net negative impact on the economy and/or the public will be eliminated from further consideration.

CRITERION 2: PROTECTION AGAINST EXTREME WEATHER EVENTS

The extent to which the project (1) protects against extreme weather events, such as floods or hurricanes; or (2) helps maintain or protect the environment: 33 U.S.C. § 3907(b)(2)(F); 40 C.F.R. § 35.10055(a)(4); 40 C.F.R. § 35.10055(a)(5).

EPA will evaluate projects on the depth and degree to which they protect against extreme weather events, such as floods or hurricanes, or helps maintain or protect the environment.

If applicable to their project, prospective borrowers can demonstrate protection against extreme weather events by providing the following information:

- How the project protects the system, project specific asset, or community from extreme weather events such temperature, storms, floods, or sea level rise (Q. D-5)

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 and flooding, flooding from coastal storm surges.

- Ecosystem Changes: Loss of coastal landforms/wetlands, increased fire risk and altered vegetation.
- Service Demand and Use: Volume and temperature challenges, changes in water demand, changes in energy sector needs, changes in energy needs of utilities.

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 that addresses flooding, drought, urban heat island effects, energy demand, protection of coastal areas, etc.
- Backup power.
- Emergency response plans.
- Enhanced infrastructure reliability.
- Water recycling and reuse.
- Managed aquifer recovery.

EPA will evaluate the project's purpose and description in determining how the project helps maintain or protect the environment.

CRITERION 3: SERVES ENERGY EXPLORATION OR PRODUCTION AREAS

The extent to which the project serves regions with significant energy exploration, development, or production areas: 33 U.S.C. § 3907(b)(2)(G); 40 C.F.R. § 35.10055(a)(6).

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.

If applicable to their projects, prospective borrowers can demonstrate serving energy exploration or production areas by providing the following information:

- How the project serves a population in a region impacted by significant energy exploration, development, or production areas (Q. D-6)

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.

CRITERION 4: SERVES REGIONS WITH WATER RESOURCE CHALLENGES

The extent to which a project serves regions with significant water resource challenges, including the need to address (1) water quality concerns in areas of regional, national, or international significance; water quantity concerns related to groundwater, surface water, or other water sources; (3) significant flood risk; (4) water resource challenges identified in existing regional, State, or multistate agreements; or (5) water resources with exceptional recreational value or ecological importance. 33 U.S.C. § 3907(b)(2)(H); 40 C.F.R. § 35.10055(a)(7).

EPA will evaluate each project on the depth and degree to which it serves regions with significant water resource challenges. Prospective borrowers should identify the water resource challenge(s) that their projects address. For each applicable water resource challenge, they should demonstrate how the proposed project addresses the 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.

If applicable to their projects, prospective borrowers can demonstrate serving regions with water resource challenges by providing the following information:

- How the project protects human health and/or the environment, including drinking water protection, source water protection, water quality, and water quantity. (Q. D-4)
- How the project protects the system, project specific asset, or community from extreme weather events such temperature, storms, floods, or sea level (Q. D-5)
- How the project protects water resources with exceptional recreational value or ecological importance. Note: 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 (Q. D-7)
- Whether the project is identified as a municipal, regional, state, or multistate priority. Documentation of the agreement or prioritization plan should be attached. (Q. D-8)

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.

CRITERION 5: ADDRESSES IDENTIFIED PRIORITIES

The extent to which the project addresses identified municipal, State, or regional priorities. 33 U.S.C. § 3907(b)(2)(I); 40 C.F.R. § 35.10055(a)(8).

EPA will evaluate each project on the depth and degree to which it addresses identified municipal, state, or regional priorities.

If applicable to their projects, prospective borrowers can demonstrate that their project addresses municipal, State, or regional priorities by providing the following information:

- Whether the project is identified as a municipal, regional, state, or multistate priority. Documentation of the agreement or prioritization plan should be attached (Q. D-8)

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.

CRITERION 6: REPAIR, REHABILITATION, OR REPLACEMENT

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. 40 C.F.R. § 35.10055(a)(12).

EPA will evaluate each project based on how much of the project costs are for the repair, rehabilitation or replacement of a treatment works, community water system, or aging water distribution or wastewater collection system. This includes repair, rehabilitation, or replacement projects to reduce exposure to lead and emerging contaminants in drinking water. EPA understands the need to repair, rehabilitate, or replace certain system assets in advance of eminent failure to achieve cost efficiencies and maintain system service levels. If the project is to construct a new infrastructure in an existing system, the prospective borrower should explain how this project replaces aging infrastructure and/or improves system performance.

If applicable to their projects, prospective borrowers can demonstrate that their project is for repair, rehabilitation, or replacement of a treatment works, community water system, or aging water distribution or wastewater collection system by providing the following information:

- A clear description of the proposed project that describes how it will meet the system's repair, rehabilitation, or replacement needs (Q. A-8)
- Documentation, such as preliminary design/engineering report or planning document, that demonstrates that system's repair, rehabilitation, or replacement needs that are being addressed through the proposed project (Q. B-3)

CRITERION 7: ECONOMICALLY STRESSED COMMUNITIES

The extent to which the project serves economically stressed communities, or pockets of economically stressed rate payers within otherwise non-economically stressed communities. 40 C.F.R. § 35.10055(a)(13).

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.

EPA will be evaluating this criterion for each prospective borrower using Median Household Income (MHI) and poverty rate from the American Community Survey and other federal data sources based on the description of the service area and jurisdictions served. (Q. A-13).

CRITERION 8: REDUCES EXPOSURE TO LEAD OR EMERGING CONTAMINANTS

The extent to which the project reduces exposure to lead in the nation's drinking water systems or addresses emerging contaminants. 40 C.F.R. § 35.10055(b).

EPA will evaluate the project on how much of the project is reducing exposure to lead or emerging contaminants in the nation's drinking water and wastewater.

If applicable to their projects, prospective borrowers can demonstrate that their project reduces exposure to lead or addresses emerging contaminants by providing the following information:

- How the project or components of the project reduces exposure to lead or emerging contaminants. (Q. D-10)

Project elements can include:

- Identification and replacement of lead service lines and distribution pipes, including galvanized steel pipes.
- Corrosion control optimization in the water system.
- Rehabilitation of wells or development of eligible sources to replace contaminated sources.
- Implementing optimized source water blends to minimize corrosion and reduce contaminants.
- Rehabilitation, replacement, or installation of pipes to prevent contamination caused by leaky or broken pipes.
- Improvements to meet or maintain drinking water quality standards.

A contaminant is considered emerging for drinking water systems if:

- It is found on any of EPA's [Contaminant Candidate Lists](#). *NOTE: the WIFIA program will continue to categorize projects addressing PFAS chemicals as emerging contaminant projects.*

A contaminant is considered emerging for wastewater systems if:

- The substance is a newly identified or re-emerging manufactured or naturally occurring physical, chemical, biological, or radiological material that may be harmful to humans under certain exposure scenarios and do not have an applicable regulatory health standard. Examples of emerging contaminants for wastewater systems can be found on the [Clean Water State Revolving Fund's Emerging Contaminants page](#).

CRITERION 9: NEW OR INNOVATIVE APPROACHES

The extent to which the project uses new or innovative approaches. 33 U.S.C. § 3907(b)(2)(D); 40 C.F.R. § 35.10055(a)(3).

EPA will evaluate how the project uses new or innovative approaches. If applicable to their projects, prospective borrowers can demonstrate that their project uses new or innovative approaches by providing the following information:

- How the project will include costs for implementing cybersecurity measures (Q. D-11)
- How the project will implement new or innovative technology(ies), such as using renewable or alternate sources of energy, water recycling, or desalination (Q. D-12)
- How the project will use new or innovative approaches to plan, design, manage, and/or implement the project (Q. D-13)

Innovative approaches will include, but are not limited to:

- Implementation of capital projects for cybersecurity
- Use of green infrastructure elements
- Development of alternate sources of drinking water and alternate water supplies through aquifer recharge, water recycling, or desalination
- A novel application of an existing method or technology

PROJECT READINESS

CRITERION 1: READINESS TO PROCEED

The readiness of the project to proceed toward development, including a demonstration by the obligor 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 a Federal credit instrument is obligated for the project under [WIFIA]. 33 U.S.C. § 3907(b)(2)(J); 40 C.F.R. § 35.10055(a)(9).

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 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 LOI submittal
- 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 reasonableness and level of detail provided in 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

Prospective borrowers should provide information about the following when responding to this criterion:

- Project delivery method (e.g., design-bid-build, design-build, public private partnership)
- The expected dates for bidding/procurement and construction for the project (Can reference project schedule)
- Any issues that may affect the development and financing of the project, such as community support, pending legislation, permitting, or litigation
- Design stage at LOI submittal

Prospective borrowers should refer to Section A: Q8, Q9 and all of Section B in the LOI to provide information about this criterion.

CRITERION 2: PRELIMINARY ENGINEERING FEASIBILITY ANALYSIS

Preliminary engineering feasibility analysis score. 33 U.S.C. § 3907(a)(2); 33 U.S.C. § 3907(a)(6); 40 C.F.R. § 35.10015(c); 40 C.F.R. § 35.10045(a).

See section 7.3. Prospective borrowers should refer to Section A: Q8, Q9 and Section B: Q3 in the LOI to provide information about this criterion.

BORROWER CREDITWORTHINESS

CRITERION 1: ENABLES PROJECT TO PROCEED EARLIER

The likelihood that assistance under [WIFIA] would enable the project to proceed at an earlier date than the project would otherwise be able to proceed. 33 U.S.C. § 3907(b)(2)(C); 40 C.F.R. § 35.10055(a)(2).

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 indicate that their project would proceed at an earlier date by receiving a WIFIA loan by:

- Selecting the appropriate description of how WIFIA funding would impact project development (Q. D-14)

CRITERION 2: FINANCING PLAN

The extent to which the project's financing plan includes public or private financing in addition to assistance under [WIFIA]. 33 U.S.C. § 3907(b)(2)(B); 40 C.F.R. § 35.10055(a)(10).

EPA will evaluate the LOI on the depth and degree to which the project's financing plan includes public or private financing in addition to WIFIA assistance.

Prospective borrowers can indicate the other sources of funding for their project, including whether they are public or private financing, by:

- Completing the Sources and Uses of Funding table for the project (Q. C-4)

CRITERION 3: REDUCTION OF FEDERAL ASSISTANCE

The extent to which assistance under [WIFIA] reduces the contribution of Federal assistance to the project. 33 U.S.C. § 3907(b)(2)(K); 40 C.F.R. § 35.10055(a)(11).

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

Prospective borrowers can indicate the extent to which receiving the WIFIA loan will reduce the contribution of Federal assistance to the project by:

- Selecting yes or no. (Q. D-15)

CRITERION 4: USE OF BUDGET AUTHORITY

The amount of budget authority required to fund the Federal credit instrument made available under [WIFIA]. 33 U.S.C. § 3907(b)(2)(E).

The amount of budget authority required to fund a WIFIA loan is a function of the borrower's preliminary creditworthiness assessment and the size of the requested loan. A low preliminary creditworthiness assessment score will result in a greater use of budget authority than a similarly sized loan with a high preliminary creditworthiness assessment score. A large loan will result in a greater use of budget authority than a small loan with similar preliminary creditworthiness assessment scores. EPA estimates the amount of budget authority required to fund the requested WIFIA loan and uses that amount in scoring this criterion.

CRITERION 5: PRELIMINARY CREDITWORTHINESS ASSESSMENT

Preliminary creditworthiness assessment score. 33 U.S.C. § 3907(a)(1); 40 C.F.R. § 35.10015(c); 40 C.F.R. § 35.10045(a)(1); 40 C.F.R. § 35.10045(a)(4); 40 C.F.R. § 35.10045(b).

See section 7.3 for an in-depth discussion of the assessment.

SELECTION CRITERIA AND LOI CROSSWALK

Table C-1 provides a crosswalk between the questions in the LOI and the selection criteria that EPA evaluates.

Table C-1: Selection Criteria and LOI Crosswalk

SELECTION CRITERION	LOI RESPONSES EVALUATED
The extent to which the project is nationally or regionally significant, with respect to the generation of economic and public benefits, such as (1) the reduction of flood risk; (2) the improvement of water quality and quantity, including aquifer recharge; (3) the protection of drinking water, including source water protection; and (4) the support of international commerce. 33 U.S.C. § 3907(b)(2)(A); 40 C.F.R. § 35.10055(a)(1).	Section D: Q1, Q2, Q3, Q4
The extent to which the project uses new or innovative approaches. 33 U.S.C. § 3907(b)(2)(D); 40 C.F.R. § 35.10055(a)(3).	Section D: Q11, Q12, Q13
The extent to which the project (1) protects against extreme weather events, such as floods or hurricanes; or (2) helps maintain or protect the environment: 33 U.S.C. § 3907(b)(2)(F); 40 C.F.R. § 35.10055(a)(4); 40 C.F.R. § 35.10055(a)(5).	Section D: Q5
The extent to which the project serves regions with significant energy exploration, development, or production areas: 33 U.S.C. § 3907(b)(2)(G); 40 C.F.R. § 35.10055(a)(6).	Section D: Q6
The extent to which a project serves regions with significant water resource challenges, including the need to address (1) water quality concerns in areas of regional, national, or international significance; (2) water quantity concerns related to groundwater, surface water, or other water sources; (3) significant flood risk; (4) water resource challenges identified in existing regional, State, or multistate agreements; and (5) water resources with exceptional recreational value or ecological importance. 33 U.S.C. § 3907(b)(2)(H); 40 C.F.R. § 35.10055(a)(7).	Section D: Q4, Q5, Q7, Q8
The extent to which the project addresses identified municipal, State, or regional priorities. 33 U.S.C. § 3907(b)(2)(I); 40 C.F.R. § 35.10055(a)(8).	Section D: Q8
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. 40 C.F.R. § 35.10055(a)(12).	Review of Section A: Q8 and Section B: Q3
The extent to which the project serves economically stressed communities, or pockets of economically stressed rate payers within otherwise non-economically stressed communities. 40 C.F.R. § 35.10055(a)(13).	Section A: Q13 Evaluated based on national census data
The extent to which the project reduces exposure to lead in the nation's drinking water systems or addresses emerging contaminants. 40 C.F.R. § 35.10055(b).	Section D: Q10
The readiness of the project to proceed toward development, including a demonstration by the obligor 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 a Federal credit instrument is obligated for the project under [WIFIA]. 33 U.S.C. § 3907(b)(2)(J); 40 C.F.R. § 35.10055(a)(9).	Review of Section A: Q8, Q9 and Section B
Preliminary engineering feasibility analysis score. 33 U.S.C. § 3907(a)(2); 33 U.S.C. § 3907(a)(6); 40 C.F.R. § 35.10015(c); 40 C.F.R. § 35.10045(a).	Review of Section A: Q8, Q9 and Section B: Q3
The likelihood that assistance under [WIFIA] would enable the project to proceed at an earlier date than the project would otherwise be able to proceed. 33 U.S.C. § 3907(b)(2)(C); 40 C.F.R. § 35.10055(a)(2).	Section D: Q14
The extent to which the project financing plan includes public or private financing in addition to assistance under [WIFIA]. 33 U.S.C. § 3907(b)(2)(B); 40 C.F.R. § 35.10055(a)(10).	Section C: Q4
The extent to which assistance under [WIFIA] reduces the contribution of Federal assistance to the project. 33 U.S.C. § 3907(b)(2)(K); 40 C.F.R. § 35.10055(a)(11).	Section D: Q15

SELECTION CRITERION	LOI RESPONSES EVALUATED
The amount of budget authority required to fund the Federal credit instrument made available under [WIFIA]. 33 U.S.C. § 3907(b)(2)(E).	Evaluated as part of the creditworthiness review
Preliminary creditworthiness assessment score. 33 U.S.C. § 3907(a)(1); 40 C.F.R. § 35.10015(c); 40 C.F.R. § 35.10045(a)(1); 40 C.F.R. § 35.10045(a)(4); 40 C.F.R. § 35.10045(b).	Section C and review of credit documents and credit information provided

APPENDIX D: COST SCHEDULE

APPENDIX D: COST SCHEDULE

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

Table D-1: WIFIA Program Costs²⁶

Cost Type	Amount	Specified in Which Document	Applies to Whom
Application Down Payment	\$100,000 or \$25,000 (for projects serving small communities)	Application Form	Applicants
Credit Processing Fee	EPA's cost of providing a loan minus application down payment	Invoice approximately 60 days after closing	Borrowers
Optional Supplemental Fee ²⁷	As applicable by agreement between WIFIA program and applicant	Loan Agreement	Applicants
Loan Servicing Fee	As applicable based on loan size and project status. Approximately between \$10,000 and \$25,000 per year.	Loan Agreement	Borrowers
Extraordinary Expenses Fee ²⁸	As applicable	Loan Agreement	Distressed borrowers

²⁶ The fee rule can be found in the [Federal Register](#).

²⁷ Although it is unlikely that a scenario will arise under which it would assess this fee, the WIFIA program can offer an optional supplemental fee. This will allow an applicant to “buy down” the credit subsidy required for the loan. This could allow an applicant to proceed to closing if sufficient credit subsidy is not otherwise available. This fee will only be charged upon agreement by an applicant.

²⁸ 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 an Extraordinary Expenses Fee 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.

APPENDIX E: CONFIDENTIAL BUSINESS REQUIREMENTS

APPENDIX E: CONFIDENTIAL BUSINESS REQUIREMENTS

Confidential business information (CBI) refers to “commercial or financial information that is obtained from a person and that is privileged or confidential.”²⁹ Information that qualifies as CBI is exempt from disclosure under Exemption 4 of the Freedom of Information Act (FOIA) upon a finding that the information is entitled to confidential treatment. Information in the public domain is not “confidential” and cannot qualify for confidential treatment under Exemption 4.

A submitter may assert a business confidentiality claim covering part or all of the information provided to EPA in a manner consistent with federal regulations³⁰ by placing on (or attaching to) the information a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as trade secret, proprietary, or company confidential. The submitter should be specific in the information that is covered by the confidentiality claim by noting the page number(s), section(s), etc. of the document that are confidential. The submitter should also state whether it desires confidential treatment until a certain date or until the occurrence of a certain event. Information covered by a business confidentiality claim will be disclosed by EPA only to the extent and only by means of the procedures set forth under federal regulations³¹. Information that is not accompanied by a business confidentiality claim when it is received by EPA may be made available to the public by EPA without further notice to the applicant.

EPA will presume that information claimed as CBI in accordance with the above procedures is entitled to confidential treatment until it receives a FOIA request for the information or until further review is warranted.³² If a confidentiality determination is required (usually in the case of FOIA), and before making a final confidentiality determination on the information, EPA will provide the submitter an opportunity to substantiate the CBI claim, i.e., demonstrate to the Agency that the release of the information would impair EPA’s ability to obtain similar information in the future, or that its release would likely cause substantial competitive harm. Prospective borrowers/applicants may waive or withdraw CBI claims at any time. EPA reserves the right to request substantiation at any time following a business confidentiality claim.

During the substantiation process, EPA will ask submitters to answer the following questions for each item or class of information that is claimed as CBI, giving as much detail as possible. EPA will consider the comments in response to these questions when determining whether the information has been shown to be entitled to confidential treatment.

²⁹ [5 U.S.C. § 552\(b\)\(4\)](#)

³⁰ [40 C.F.R. § 2.203](#), 41 Fed. Reg. 36902 (Sept. 1, 1976)

³¹ [40 C.F.R. Part 2, Subpart B](#)

³² [5 U.S.C. § 552\(b\)\(4\)](#)

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

The submitter bears the burden of substantiating a confidentiality or trade secret claim.



Office of Wastewater Management

WIFIA Management Division

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