

The Water Infrastructure Finance and Innovation Act

Title V, Subtitle C of the “Water Resources Reform and Development Act” conference report

May 15, 2014

- WIFIA is based on the framework of the existing Transportation Infrastructure Finance and Innovation Act (TIFIA), which provides low-cost credit assistance to transportation projects of regional and national significance. The U.S. Department of Transportation reports that each federal dollar put into TIFIA can provide approximately \$10 in project loans, and WIFIA is expected to replicate this leverage ratio. This means that a \$20 million WIFIA appropriation could support roughly \$200 million worth of project loans.
- Title V, Subtitle C of WRRDA creates two separate WIFIA pilot programs: one operated by EPA, and another operated by the Army Corps of Engineers. The bill authorizes a total of \$350 million over five years to fund the program, divided evenly between EPA and the Army Corps. The annual authorization increases incrementally, with EPA and the Corps each authorized to receive \$20 million in the pilot’s first year, and \$50 million each in the final year.
- WIFIA loans may only be used to finance eligible projects that are expected to cost more than \$20 million. But an exception is made for “small community water infrastructure projects” that serve a community of fewer than 25,000 people, and which must only cost at least \$5 million to be eligible for WIFIA funding. Subtitle C requires EPA and the Army Corps to each reserve at least 15 percent of each year’s WIFIA appropriation to fund these small-community projects.
- Projects eligible for WIFIA assistance through the Army Corps include those that reduce flood, hurricane or storm damage risk, provide for environmental restoration, or improve inland and intercostal waterway navigation.
- Projects eligible for WIFIA assistance through EPA include:
 - Any project eligible for assistance under the Drinking Water or Clean Water SRFs;
 - A project for repair, rehabilitation, or replacement of a treatment works or a community water system;
 - A brackish or sea water desalination, managed aquifer recharge, or water recycling project;
 - A project to enhance the energy efficiency of a water system; and
 - Projects combining these elements.
- EPA and the Army Corps will each select WIFIA loan recipients from a nationwide pool of applicants after considering factors such as a project’s:
 - Creditworthiness and readiness to proceed;
 - National or regional significance with respect to economic and public benefits;

- Potential to proceed more quickly than it otherwise would;
 - Use of new or innovative approaches;
 - Acquirement of additional public or private financing in addition to WIFIA funds;
 - Potential to protect against extreme weather events such as floods or hurricanes;
 - Benefits to regions with significant water resources challenges; and
 - Consistency with identified municipal, state, or regional priorities.
- Water utilities and state infrastructure financing authorities may combine several eligible projects (which are secured by a common security pledge) into a single WIFIA application. This will allow projects that would not otherwise meet the \$20 million minimum project size to compete for WIFIA funding.
 - WIFIA funds generally may not exceed 49 percent of a project’s total cost, though each year EPA and the Army Corps may use up to 25 percent of their respective WIFIA appropriation to issue loans for eligible projects that exceed the 49 percent cap.
 - State SRF administrators have no role in selecting projects that receive WIFIA funding. However, a project may not receive a WIFIA loan if a state, within a designated timeframe, notifies EPA that it intends to commit a greater or equal amount of funding for that same project. If a state makes this notification, but then does not enter an assistance agreement for that project – or offers assistance at interest rates inferior to WIFIA – within 180 days, then that project is again eligible for WIFIA assistance.
 - Tax-exempt financing (such as tax-exempt municipal bonds) may not be used to fund any project, “in whole or in part,” that also receives WIFIA assistance.
 - WIFIA loans will be repaid over 35 years, beginning no later than 5 years after a project’s substantial completion. The interest rate may not be less than the yield on U.S. Treasury securities of a similar maturity issued on the loan agreement’s execution date.
 - Davis-Bacon prevailing wage rates and “Buy American” rules on the use of iron and steel products will apply to any project receiving WIFIA assistance. EPA may waive the “Buy American” requirement under certain circumstances (such as if it would increase overall project costs by more than 25 percent or if a sufficient quality or quantity of American-made goods are not available).
 - The Government Accountability Office (GAO) will complete a report to Congress on the implementation of WIFIA, due 4 years after the program’s enactment. The report will include an evaluation of the impact of the implications of prohibiting the use of tax-exempt financing to supplement WIFIA loans.