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WIFIA Program: Background and Recent Developments

The Water Resources Reform and Development Act of 2014 authorized the Water Infrastructure Finance and Innovation Act (WIFIA) program to promote development of and private investment in water infrastructure projects (33 U.S.C. §§3901-3914). Initially established as a five-year pilot program, WIFIA authorizes the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) to provide credit assistance in the form of secured or direct loans for a range of water infrastructure projects.

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

Communities generally pay for water projects through debt financing (e.g., municipal bonds) and revenue from user fees. In 2017, state and local resources accounted for more than 96% (\$108.8 billion) of the public spending on water utilities, while the federal contribution accounted for the remaining 4% (\$4.2 billion), according to the Congressional Budget Office (CBO Publication 54539).

WIFIA complements two EPA-administered programs: the Clean Water State Revolving Fund (SRF) and the Drinking Water SRF. For FY2020, combined appropriations for the SRF programs totaled \$2.77 billion. In both programs, EPA provides grants to states to capitalize their SRF loan programs. States, in turn, use their federal grant, state match, and sources of borrowed funds (e.g., bonds) to provide assistance (primarily subsidized loans) to help communities afford water infrastructure. Eligible entities for Clean Water SRF include municipalities, state agencies, and private and nonprofit entities. Clean Water SRF assistance can support a range of projects needed for constructing or upgrading (and planning and designing) publicly owned treatment works, among other purposes. The Drinking Water SRF provides assistance to public water systems—which may be publicly or privately owned—for projects intended to facilitate Safe Drinking Water Act compliance or further health protection objectives.

Program Design

WIFIA appropriations primarily cover long-term credit subsidy costs. Under the Federal Credit Reform Act of 1990

(2 U.S.C. §661(a)), the subsidy cost of federal credit programs, such as WIFIA, accounts for potential losses to the government as a result of loan defaults. The subsidy cost is often presented as a percentage or a ratio (i.e., subsidy rate) and largely determines the amount of loans that can be made available. For example, if the subsidy cost of a WIFIA loan is 10%, a \$1 million appropriation can provide \$10 million of loan capacity. A lower subsidy rate would support a larger loan amount. Relative to its budget authority (\$60 million in FY2020), WIFIA appropriations may provide a large amount of loans. In appropriations acts, Congress has capped the amount of loans supported by WIFIA appropriations (e.g., the cap is \$11.5 billion for FY2020). WIFIA loans, which are repaid to the U.S. Treasury, have less of a federal budgetary effect than the SRFs, because states do not repay capitalization grants.

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

Eligibility

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

Eligible entities for WIFIA assistance include (1) a state infrastructure financing authority (SIFA); (2) a corporation; (3) a partnership; (4) a joint venture; (5) a trust; or (6) a federal, state, local, or tribal government or instrumentality. Both public and private entities can use WIFIA assistance for eligible projects. Private entities must have a public sponsor to be WIFIA-eligible. WIFIA establishes broad selection criteria that EPA uses to rank projects, including the project's national or regional significance with respect to economic and public benefits, creditworthiness, and readiness. To be eligible for WIFIA, projects must generally exceed \$20 million in cost. For *small* communities (25,000 people or fewer), eligible projects must exceed \$5 million in cost. WIFIA directs EPA to set aside 15% of each WIFIA appropriation to assist projects serving small communities. If those funds remain

unobligated by June 1 of that fiscal year, EPA may use the set-aside for any project.

USACE-Administered WIFIA Program

Projects eligible for the USACE-administered WIFIA program include water resource projects for flood damage reduction, aquatic ecosystem restoration, and navigation improvement, among other purposes. These categories of projects overlap with the types of projects that Congress authorizes USACE to construct itself, typically with a nonfederal sponsor contributing toward the project costs. Congress recently expanded the authority for nonfederal project sponsors to lead the construction of these congressionally authorized projects. The federal participation in such projects may affect USACE WIFIA operations (e.g., potentially a higher subsidy rate than EPA-administered projects). In July 2018, EPA and USACE entered into a memorandum of understanding stating the agencies' intent to work together on their WIFIA implementation. As of mid-2020, USACE had advanced its efforts to develop its WIFIA program. Upon receipt of an appropriation, USACE would implement its WIFIA program.

To spur private investment, WIFIA assistance can generally support no more than 49% of a project's costs. However, EPA may use as much as 25% of appropriated funds to provide assistance in excess of 49% of project costs. Total federal assistance, including from WIFIA, may not exceed 80% of a project's costs, with some exceptions. **Table 1** contains FY2017, FY2018, FY2019, and FY2020 total WIFIA appropriations; appropriation for subsidy costs; and capped loan capacity. In WIFIA appropriations, Congress has specified amounts for both loan subsidy costs and EPA program administration costs.

Table 1. WIFIA Appropriations, Subsidy Costs, and Capped Loan Capacity

Fiscal Year	Total Appropriation	Subsidy Cost Appropriation	Capped Loan Capacity
(nominal \$ in millions, not adjusted for inflation)			
2017	\$30	\$25	\$3,049
2018	\$63	\$55	\$6,710
2019	\$68	\$60	\$7,310
2020	\$60	\$55	\$11,500

Source: Compiled by CRS using enacted appropriations and associated loan capacity estimates therein.

Recent and Proposed WIFIA Revisions

The 115th Congress amended WIFIA in the America's Water Infrastructure Act of 2018 (AWIA; P.L. 115-270) to remove the pilot designation from the program and to make several programmatic revisions. Among the revisions, several addressed SIFAs' use of WIFIA financial assistance. The act authorizes an appropriation of additional \$5.0 million for each of FY2020 and FY2021 for assistance to SIFAs to support combined projects eligible for assistance from the SRFs under specified conditions. For FY2020, Congress directed \$5 million of the total WIFIA appropriation to SIFA assistance.

The act further amended WIFIA to authorize EPA to enter into agreements with relevant federal agencies to administer and service loans that such agencies are authorized to make. Such agreements may avoid duplication of WIFIA-related administrative functions across agencies. AWIA Section 4301 directed EPA and the Department of the Interior's Bureau of Reclamation to enter into such an agreement. In November 2019, EPA announced a memorandum of understanding with the bureau on the agencies' intent to work together on WIFIA and potential federal credit instruments for water supply and reuse.

In the 116th Congress, Section 2014 of the America's Water Infrastructure Act of 2020 (S. 3591) would reauthorize annual appropriations of \$50 million for WIFIA for FY2022-FY2024. Regarding SIFAs, this provision would reauthorize appropriations of \$5 million for FY2022-FY2024. EPA would be authorized to use up to \$5 million of the annual WIFIA appropriation for administration for FY2022-FY2024. Section 2014 would also clarify that when nonfederal entities use nonfederal revenues to repay WIFIA assistance, then such projects are considered nonfederal projects for budgetary purposes under the Federal Credit Reform Act. Section 2015 would reduce (from two to one) the number of final rating opinion letters required from WIFIA applicants.

EPA Implementation

Each year that Congress appropriates funds to cover subsidies for WIFIA loans, EPA publishes a Notice of Funding Availability (NOFA), which provides interested entities with WIFIA application information. In each NOFA, EPA identifies considerations for project prioritization (e.g., repairing aging infrastructure). The NOFA invites entities to submit a letter that validates the entity and project eligibility, provides preliminary project information, and evaluates the project against the NOFA's selection criteria.

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

EPA began issuing WIFIA loans in 2018. In response to the FY2017 NOFA, EPA received 43 letters of interest and invited sponsors of 12 projects to apply for WIFIA loans. Of these, 11 projects finalized WIFIA loans for \$2.5 billion. For the FY2018 NOFA, EPA received 62 letters of interest and invited 39 projects to apply for loans totaling \$5.5 billion. Of the 39 projects, EPA had received 27 applications and finalized 10 loans for roughly \$1.9 billion as of May 2020. For the FY2019 NOFA, EPA received 51 letters of interest and invited sponsors of 38 projects to apply for roughly \$6 billion in WIFIA loans.

Elena H. Humphreys, Analyst in Environmental Policy

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