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February 2020 Update on the Water Infrastructure Finance and Investment Act (WIFIA)

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I. Introduction

The Water Infrastructure Finance and Investment Act (WIFIA) was established as part of Water Resources Reform and Development Act (WRRDA) in 2014. This below-market lending program developed out of a need to help address the water infrastructure financing gap in the United States¹. Under this program WIFIA provides federal assistance in the form of secured direct loans or loan guarantees². In 2018, the American Water Infrastructure Act (AWIA) reauthorized and amended WIFIA³.

As a borrowing mechanism, WIFIA is attractive because it can be utilized by different credit types and offers flexibility in terms of eligible borrowers and projects. A single, fixed interest rate is set upon completion of the application. The program is targeted for “municipalities, private entities, project financings, SRF programs, and tribes⁴.” The relationship between WIFIA and SRF funding (provided through state finance authorities) is described in detail below.

In consideration of the water infrastructure needs in New York state, special attention is given to how the loan program could be utilized by small municipalities. Though only 15% of WIFIA appropriations is set aside for small communities (i.e., a population of less than 25,000), any appropriated funds leftover from an application round can be used for communities of any size. Further, during the 2018 round of WIFIA applications, the Indiana Finance Authority (IFA) selected a portion of projects from their SRF Intended Use Plan (IUP) and applied to the program with a bundle of smaller projects (see **Appendix C**). IFA is the first bundling project WIFIA has accepted. **Section IV** will discuss this further.

This memorandum serves to inform changes made to the WIFIA program since its inception, including proposed modifications that have not been finalized. It offers suggestions on creative ways to combine funding or frame projects to fulfill infrastructure needs in the state of New York. Lastly, this memo offers a review of two NY projects – the City of Cortland and Monroe County – that considered utilizing WIFA funds. The term sheet for Monroe County is not publicly available because the project did not ultimately use WIFIA funds. Cortland’s term sheet should become available through the EPA once the financing has been finalized.

This report was prepared for the New York State Water Resources Institute (WRI) and the Hudson River Estuary program of the New York State Department of Environmental Conservation, with support from the NYS Environmental Protection Fund.

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II. Letter of Interest and Application Processes

WIFIA utilizes a two-tiered application process. First, applicants submit a Letter of Intent (LOI) to the EPA. LOIs are submitted 86 days after the Notice of Funding Availability is released. Submission includes a fee of \$100,000 for large projects and \$25,000 for small projects.

Note: This fee can be financed by WIFIA credit assistance and applied to the eligible project costs.

If selected, a borrower has 365 days to submit an application following the invitation to apply. An invitation to apply indicates that EPA believes the selected projects will be able to attain WIFIA loans. According to the EPA, the only time a project that is accepted past the first phase, but does not make it past the second phase, is when the borrower backs out⁵. Historically, WIFIA has not rejected a project whose LOI was accepted.

LOIs are evaluated heavily on how the project achieves the selection criteria. **Section III** demonstrates how these criteria have been weighted since the program's inception, including shifting strategic objectives. Once a project begins the application phase of the process, the WIFIA staff assigns experts (engineers and financiers) and offers technical assistance on the application itself.

Upcoming Changes:

In discussions with WIFIA personnel in July 2019, it was learned that EPA has concerns that the LOI itself was too time consuming, and EPA may make changes to the process for the 2020 application period.

Note: Michelle Virts, Deputy Director of Monroe County's Department of Environmental Services, indicated that the NYS SRF application process was more demanding than the WIFIA process. Further, while Virts stated that the process is very time consuming, it is not necessarily difficult, particularly given the assistance the staff and consultants offer.

III. Changes in WIFIA: 2017-2019

A. Removal of the "pilot" designation: On October 2018, AWIA removed WIFIA's "pilot" designation, revised certain provisions (described in **Section IV**), and reauthorized appropriations⁶.

FY	Authorized funding (\$ millions)	Appropriated program expenses (\$ millions)	Appropriated administrative expenses (\$ millions)	Appropriated total expenses (\$ millions)	Total amount of projects supported (\$ billions)
2015	\$20	\$0	\$0	\$0	\$0
2016	\$25	\$0	\$0	\$0	\$0

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2017	\$35	\$25	\$5	\$30	\$2.3
2018	\$45	\$55	\$8	\$63	\$5.5
2019	\$50	\$60	\$8	\$68	\$7
2020	TBD	TBD	TBD	TBD	TBD

B. Shifting focus and evaluation criteria: The strategic objectives of WIFIA continue to change each year and are quite different from the first round of applications. Strategic objectives indicate the desired focus of selected projects.

Strategic Objectives	FY 2017	FY 2018	FY 2019
Extreme weather and climate change infrastructure	Included	—	—
Enhanced energy efficiency	Included	—	—
Green infrastructure	Included	—	—
Clean and safe drinking water	—	Included	Included
Repair and rehabilitate old infrastructure	Included	Included	Included
Water reuse and recycling	—	—	Included
Readiness to proceed	—	—	Included

C. Selection Criteria Grading: Highlighted criterion are most heavily weighted.

Criterion Grouped by Category	FY17 Score %	FY18 Score %	FY19 Score %
Project Impact			
National or regional significance	10	5	5
New or innovative approaches	10	2	New category
Protects against extreme weather events	10	2*	2*
Helps protect the environment	10		

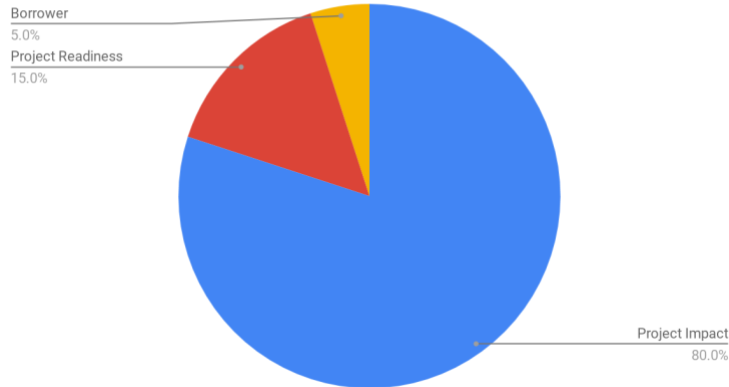
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Serves energy exploration, development, or production areas	5	2	2
Serves regions with significant water resource challenges	10	3	3
Addresses identified municipal, state, or regional priorities	5	3	3
Addresses need for repair, rehabilitation, or replacement	10	7	8
Serves economically stressed communities or ratepayers	10	3	3
Reduced exposure to lead or ensures compliances with contaminant limits	5	7	7
Project Readiness			
Readiness to proceed	5	17	17
Preliminary engineering feasibility analysis score	0	17	10
New or innovative approaches	N/A	N/A	7
Borrower Creditworthiness			
WIFIA enables project to proceed earlier	5	3	3
Financing plan includes non-WIFIA public or private financing	5	3	3
Reduces need for other federal assistance	5	3	3
Required budget authority	0	3	3
Preliminary creditworthiness assessment score	0	20	20
*Score shared between two categories			

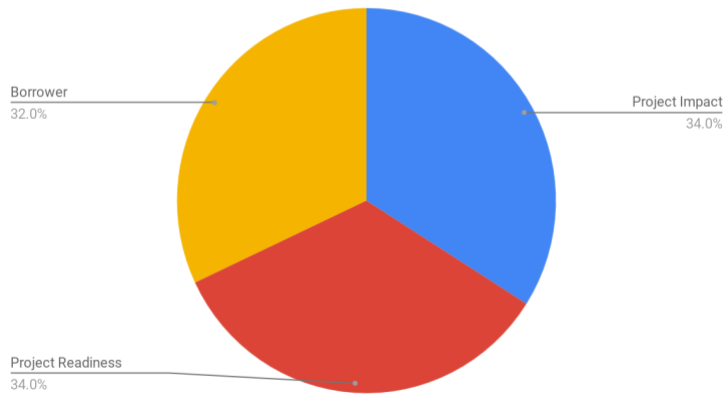
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D. Distribution of WIFIA Criteria 2017-2019: As shown below, selection criteria is now weighted much differently since the first year of the program, where project impact was the most heavily weighted category. However, considering the chart above, it is clear that certain criteria within each of the three categories are graded more heavily.

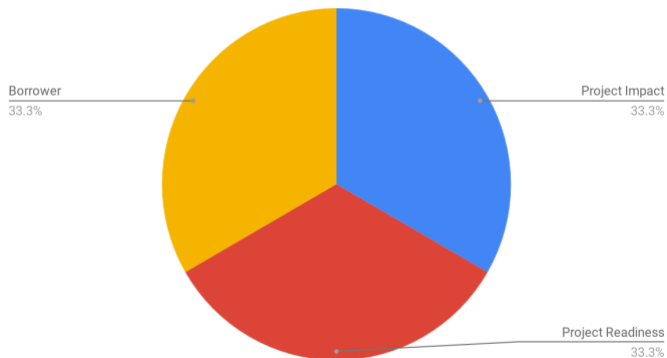
FY2017



FY2018



FY2019



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E. Expansion of Eligible Funding Sources

Under WRRDA (2014), a WIFIA loan could cover up to 49% of a project's total costs. Further, the remaining 51% of costs could not come from tax-exempt sources⁷. Many potential applicants expressed concern about this constraint during listening sessions in 2014⁸.

The Joint Committee on Taxation stated that allowing borrowers to fund 51% of project costs with a tax-exempt source would result in federal revenue loss upwards of \$135 million⁹. It was acknowledged, however, that municipalities and states rely on the issuance of tax-exempt bonds and without this financial option, the number of borrowers seeking federal credit assistance through WIFIA would be limited. At the end of 2015, a provision within H.R. 22 (FAST Act) repealed WRRDA's restriction on tax-exempt funds. For an example, see the City of Cortland's WIFIA project in **Appendix A**.

IV. Securing Required Funding for Water Infrastructure Now Act (SWIFIA or SRF WIN)

When WIFIA was first established in 2014, EPA held listening sessions across the country. These sessions exposed a need to structure WIFIA like an SRF: "...what brings projects to SRF is learned experience, predictability, and transparency, and borrowers have a comfort level with the program.¹⁰" Stakeholders emphasized SRF project bundling and called for WIFIA program requirements to parallel those in SRF programs¹¹. As a result, WIFIA has been designed to work *with* SRFs.

Senator John Boozman (AR) proposed Securing Required Funding for Water Infrastructure Now Act (SWIFIA) as part of AWIA 2018¹². Though the proposition did not make it through the Senate committee in its entirety, parts were incorporated into AWIA in 2018 which authorized funds for SRF funded projects¹³. Since 2017, the Council of Infrastructure Financing Authorities (CIFA) has been writing letters in support of SWIFIA to Senators and committees¹⁴. It is believed SRFs will receive more authorized funding in Fall of 2019¹⁵.

SWIFIA aggregates a portion of WIFIA's annual appropriations to states for the funding of SRF projects. Provisions in SWIFIA include:

- States bundle prioritized drinking water and wastewater projects in a single application¹⁶
- Review process is expedited¹⁷
- Application fee is waived¹⁸
- Existing state environmental review processes fulfill WIFIA compliance requirements¹⁹
- WIFIA loans can cover up to 100% of project costs²⁰
 - Administrative costs within reason can be covered by WIFIA loans²¹
- Interest rates are set to U.S. Treasury rate unless the SRF is allocated less than 2% of the Federal allocation (this isn't the case for NY) or there is insufficient demand for loans at this rate²²

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- A third option: equitable allocation, designates 50% of loans at the treasury rate and the remaining half at 80% of the treasury rate²³

EPA staff is currently working towards a SWIFIA model pending confirmation of the next year's appropriations. It is unclear if all of the provisions would be kept. **Note: SRFs and WIFIA must be funded at 2018 levels before SWIFIA can be authorized** ²⁴.

V. Program Benefits and Constraints

The following are financial benefits associated with the WIFIA program.

- Accessibility to municipalities with low credit ratings and SRF finance authorities who do not have a AAA rating²⁵
- Locked interest rate at closing
- Customized repayment schedules
- 35-year amortization period²⁶
- Payment deferral options
- State Infrastructure Finance Authorities (SIFAs) have greater flexibility in their loan agreements (see **Section IV**)
- WIFIA loans can be combined with various funding sources, including tax-exempt sources
- Interest rates lower than tax-exempt municipal bonds²⁷

According to the WIFIA staff, the program works well for large infrastructure projects based on the demands of the application processes, such as the environmental reviews and preliminary financial assessments that may be costly for small towns²⁸. Further, applicants must have a developed operations and maintenance plan, which excludes projects in planning and development phases²⁹. Below are additional constraints:

- Costs minimums are set at \$20M for a large project and \$5M for small projects (i.e. population size of 25,000 or less).
- Financing must be repayable in whole or part from taxes, user fees, or other revenue sources that secure senior project obligations
- A non-government agency that applies as a borrower project must be publicly sponsored

In the case of the Monroe County's application, which was selected for the 2018 rounds, the county chose to back out of their WIFIA application to pursue SRF grants and loans. See **Appendix B** for an overview of this project.

VIII. Conclusion

The WIFIA program allows for borrowers of varying credit backgrounds and project types to develop repayment models that fit their infrastructure finance needs. Two developments to watch are those of SWIFIA/SRF WIN, particularly the provisions determined in March of this year and

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IFA's bundling project, which establishes not only a new finance model, but also is the first bundled project in the WIFIA program. This approach could hold potential for NY EFC.

WIFIA's 2019 LOI submission period closed in mid-July. It will be instructive to see which projects are selected and whether or not other finance authorities applied with bundled projects.

June 2020 Updates

During September of 2019, the WIFIA staff announced the selected projects for the 2019 application period. In total, 38 projects were chosen across 18 states, with the total impacted population reaching 24 million residents.¹ Of these projects, 33 are considered repair, rehabilitation, or replacement, 11 reduce lead or emerging contaminants, and 8 address water reuse and recycling (with some projects falling into two or more project categories).²

No New York projects were selected during this round, but IFA's project bundling strategy was emulated in New Jersey. The New Jersey Infrastructure Bank (I-Bank) is an independent state financing authority that issues revenue bonds in order to supply loans for environmental infrastructure projects, among others.³ I-Bank applied with a pool of projects and the purpose of expanding the capacity of the state's Revolving Fund. Similar to IFA, I-Bank will use their WIFIA loan (\$149 million) to support clean water and drinking water projects within their SRF database.

Acknowledgments

The tables and graphs used in Section III were expanded from Sri Vedachalam and Anna Lindquist's 2019 Journal AWWA article that is cited in this memo.

Special thanks to EPA's Karen Fligger, Arielle Gerstein, and WIFIA staff for taking the time to share information and resources.

¹WIFIA. "New Jersey Infrastructure Bank." EPA, n.d. https://www.epa.gov/sites/production/files/2019-10/documents/new_jersey_infrastructure_bank_0.pdf.

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³"About Us." New Jersey Infrastructure Bank, n.d. <https://www.njib.gov/nj/About+Us.35>.

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Appendix A: Financial Summary for City of Cortland Project

Clinton Avenue Gateway
Total Project Cost: \$17.8 million

The City of Cortland was approved for a WIFIA loan in 2018. The project involves replacing drinking water pipes and the storm and sewer pipes. Construction for the project began in July of this year, though residents have been talking about the project in town hall meetings for over eight years³⁰. The term agreement has not yet been released for this project.

Funding Sources

Sources of Funds	Amount
WIFIA Loan	\$8,722,000.00
NYS CWSRF	\$2,987,175.00
NYS Climate Smart Community Grant	\$2,000,000.00
NYS CWSRF Grant	\$995,725
NYS Green Innovation Grant	\$1,029,153
NYS Integrated Construction Grant	\$875,000
NYS Community Development Block Grant	\$750,000
Revenue Bonds	\$140,947
Borrower Cash	\$300,000

Total Funding Sources: \$17,800,000

Use of Funds

Construction	\$12, 660,00
Design	\$2,000,000
Planning	\$500,000
Contingency	\$2,640,000

Total Costs: \$17,800,000

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Appendix B: Financial Summary for Monroe County Project

Frank E. Van Lare Water Resource Recovery Facility

Total Project Cost: \$29.1 million

Monroe County pulled its WIFIA application in July, 2019. According to Michelle Virts, Monroe County's Deputy Director of Environmental Services, the project qualifies for a lower interest rate if the county pursues funding from the State Revolving Fund (SRF)³¹. This case is special given the county is under an order of consent to make repairs to the wastewater treatment system. According to Virts, this consent order makes the project competitive, and though it does not qualify for hardship financing (see **Appendix A**), Monroe County serves a population with a 14.8% poverty rate³² and these factors combined give the project a higher score on the EFC application. Virts also stated that the county could use general obligation bonds to fund the entire project, however, the reason for pursuing additional funding sources is to lessen the financial burden on the county and its residents³³.

Funding sources

Using WIFIA	Amount	Without WIFIA (current)	Amount
General obligation bonds	\$5,100,000	General obligation bonds	\$5,100,000 (projected to increase)
WIFIA loan	\$14,000,000	Various grant programs*	TBD
Borrower cash	\$5,000,000	CWSRF Loan	TBD
NYS grant*	\$5,000,000	EFC's Clean Water Infrastructure Improvement Act Grant	TBD

*This amount had been requested, not awarded, when the application was submitted. The specific grant was never listed in the LOI or application.

**Monroe County is applying through the state's Consolidated Funding Application (CFA) and expect to hear back about potential awards in the fall.

Uses of Funds

Construction	\$17,460,00
Design	\$2,910,00
Planning	\$1,455,000
Other	\$4,365,000
Contingency	\$2,910,000

Total Costs: \$29,100,000

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Appendix C: Financial Summary for Indiana Finance Authority (IFA)

Bundled SRF Projects

Total Project Cost: \$892,000,000

IFA applied to WIFIA in 2018 with a bundling of projects from their SRF Intended Use Plan. The finance authority selected 23 projects, 10 of which are located in rural areas³⁴. The projects meet the **strategic objectives of clean and safe drinking water and repair and rehabilitate infrastructure**. The projects also fall into the **drinking water and wastewater SRF eligible project types**.

The loan - a total of \$436 million - is largest amount ever disbursed in the WIFIA program³⁵. This agreement is also the first time WIFIA has lent to an SRF program. The amortization schedule for the WIFIA loan starts in 2019 and ends in 2053. The interest rate is 1.88% and the total repayment will be \$452,817,547.70³⁶.

Funding Sources

Source	Amount
WIFIA Loan	\$436,000,000
SRF Bond Proceeds (Non-Federal)	\$202,000,000
SRF Equity (Non-Federal)	\$254,000,000

Total Funding: \$892,000,000

IFA's debt service includes the **WIFIA Alternative Indenture**. IFA was conscious of the impact of using tax exempt bonds on federal revenue, and so it established a WIFIA Trust Estate with New York Mellon Trust Company³⁷. This includes issuing a series of two taxable bonds that will be used solely for its WIFIA debt service. Series 2019-1 for a total of \$349,000,000 and Series 2019-2 for a total of \$87,000,000 and both are expected to mature until 2054³⁸.

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Notes

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