

Water Infrastructure Finance and Innovation Act (WIFIA): Untapped Opportunity for Water P3s

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Introduction

Over the last two decades, many municipalities throughout the U.S. have been struggling with some of the same common water-related issues: an insufficient supply of water resources, especially where they are needed; inadequate water and wastewater treatment systems; surface and ground water contamination; storm water flooding and contamination; and strained financial resources to pay for repair, rehabilitation and/or replacement of water and wastewater treatment systems. The EPA has estimated that the U.S. requires by 2025 approximately \$1.4T in water-related infrastructure repair, rehabilitation and/or replacement.

There has been increasing pressure for U.S. municipalities to tackle the above issues as well as to provide more reliable, safe and efficient water systems. The Water Infrastructure Finance and Innovation Act (WIFIA) was enacted to provide low-cost and relatively flexible financing opportunities to entities developing water projects. In June of 2014, WIFIA was authorized under the Water Resource Reform and Development Act, Title V. In 2015, the WIFIA statute was amended to allow the use of tax-exempt financing in conjunction with WIFIA loans and was modeled very closely on the similarly named Transportation Infrastructure Finance and Innovation Act (TIFIA) administered

by the Department of Transportation. WIFIA is intended to accelerate investment in U.S. water and wastewater infrastructure by providing long-term, low cost, supplemental federal credit assistance via loans or loan guarantees. The EPA administers the WIFIA program.

Eligible activities that the WIFIA program supports include: wastewater and drinking water projects eligible for state revolving fund loans; water desalination; acquisition of property; energy efficiency; and repair, rehabilitation or replacement of a water treatment works, waste collection facility, community water system, or an aging water distribution facility. Similar to TIFIA, projects eligible for WIFIA loans must have a pledged revenue source that can take the form of taxes, rate revenue, pledged transfers from other governments, general obligation pledges, among others. Additionally, borrowers can be corporations, partnerships or joint ventures, trusts, tribal government, a state revolving fund, or a federal, state or local government entity or agency. And as WIFIA is available to both public and private borrowers and intended to bring about more private investment, this financing tool can be effective for upcoming P3 projects in the water sector.

WIFIA Key Features and Terms

WIFIA has the following key features:

- \$20M - minimum project size for large communities
- \$5M - minimum project size for small communities (population of 25,000 or less)
- 49% - maximum portion of eligible project costs that WIFIA funds
- 35 years - maximum final maturity date from substantial completion
- 5 years – maximum time that repayment may be deferred after the substantial completion of the project
- Interest rate will be equal to or greater than the U.S. Treasury rate of a similar maturity

WIFIA has the following flexible financial terms:

- Loan may be amortized to complement other debt repayments
- Disbursements may be synchronized with funding needs which reduces the amount of accrued interest
- No penalty for prepayment of loan
- Under some circumstances, loan may be made junior (subordinate) to senior debt obligations in payment priority, thereby reducing repayment risk for other funding sources and making it easier for third party lenders to participate

Application Process

The application process follows a Notice of Funding Availability (NOFA). A NOFA is published each fiscal year (FY) in the Federal Register to solicit Letters of Interest from prospective applicants for WIFIA credit assistance. As part of the NOFA, a deadline is set for submitting Letters of Interest. WIFIA may make additional solicitations during the year depending on the funding amounts available. A prospective applicant submits a Letter of Interest prior to the NOFA deadline. Then, the EPA evaluates all Letters of Interest and selects those

projects that will be invited to submit applications. As part of the application evaluation process, the EPA requires applicants to orally present their proposed project which is followed by a discussion. To determine its project selections, the EPA uses selection criteria with respective weighted points.

The chart below provides the EPA's selection criteria including project impact, borrower creditworthiness and project readiness along with their respective weighted points.

Selection Weights:

Project Impact Criteria	Points
National or regional significance	15
Protection against extreme weather events	5
Serves energy exploration or production areas	5
Serves regions with water resources challenges	10
Addresses identified priorities	10
Repair, rehabilitation, or replacement	25
Economically stressed communities	10
Reduces exposure to lead & emergent contaminants	20

Borrower Creditworthiness Criteria	Points
Enables project to proceed earlier	10
Financing plan	10
Reduction of Federal assistance	10
Required budget authority	10
Preliminary creditworthiness assessment	60

Project Readiness Criteria	Points
Readiness to proceed	50
Preliminary engineering feasibility analysis	30
New or innovative approaches	20

Total Available Points: 300

Source: EPA/WIFIA Program Overview Presentation,
P3 Water Summit, San Diego, CA, 4/23/19

After the EPA issues its selection determination for a project, the EPA and the prospective borrower engage in financial due diligence, term sheet negotiation, loan agreement negotiation, final loan approval and closing.

The time required to complete the WIFIA application process varies depending on the complexity of the transaction and length of the negotiations with the EPA. The process typically takes less than 6 months for a low complexity

municipal financing, though like TIFIA, these loans require opinions from rating agencies. However, the EPA estimates that the process typically takes about a year for a complex financing such as a P3 project. For the total of 8 WIFIA loans that have closed since WIFIA began lending in FY 2017 to about late mid-April 2019, the time from application submission to loan closing has ranged from 5.5 months to slightly over 10 months. According to the EPA, the average timeline for this process is 7 to 8 months.

Available Financing

WIFIA lending began in FY 2017. Since that time to about mid-April 2019, the WIFIA program has received 105 Letters of Interest, invited 52 applicants to submit applications, selected 17 project loans and closed 8 of the loans. The WIFIA program has selected to finance loans totaling approximately \$7.2B (with a total project value of \$15.8B), over \$2B of which represent loans that have closed.

For FY 2019, Congress has made available to the EPA \$60M in budget authority to cover the subsidy cost of providing WIFIA credit assistance. Depending on the borrower's credit quality, each

dollar of subsidy supports about \$50 to \$100 loan amount. This means that the funding covers the anticipated cost of the federal government providing about \$6B in loans for FY 2019. However, as WIFIA finances up to 49% of the expected project costs, the \$60M in budget authority provides support for approximately \$12B total investment in water related infrastructure projects.

Conclusion

For municipalities, developers and contractors looking for a reasonable, long-term and relatively low-cost financing option for their water and wastewater infrastructure projects, the WIFIA program provides a reliable and flexible funding solution for up to 49% of the eligible project costs. The majority of projects awarded WIFIA financing

have been public, though this could be an especially attractive opportunity to access low-cost loans to finance approximately \$12 billion worth of project value for water infrastructure for private sector borrowers. At the same time, more borrowers of all types accessing WIFIA will hopefully help to mobilize a pipeline of water infrastructure projects.

Contacts

Tariq Taherbhai

COO

Aon Global Construction &
Infrastructure Group

+1.312.515.9576

tariq.taherbhai@aon.com

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