



SWIFIA HANDBOOK

December 2024

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EXECUTIVE SUMMARY

The SWIFIA Program Handbook, written for State Infrastructure Financing Authority prospective borrowers, describes how the U.S. Environmental Protection Agency (EPA) administers the State Infrastructure Financing Authority Water Infrastructure Finance and Innovation Act (WIFIA) program (the SWIFIA program).¹ This handbook provides prospective borrowers with the information and resources needed to understand the requirements and procedures for obtaining a SWIFIA loan and remaining in compliance with SWIFIA program rules and regulations.

This handbook consists of six sections and four appendices as follows:

Section 1 – Introduction to SWIFIA provides background information on the WIFIA program and introduces the WIFIA program’s objectives. This section also introduces the SWIFIA program.

Section 2 – Credit Requirements and Policies describes the terms of SWIFIA loans required by statute, as well as key credit policies governing the SWIFIA program that influence the structuring of financing plans and guide the WIFIA program’s creditworthiness determination.

Section 3 – Loan Process Summary provides an overview of the process by which SWIFIA loans are awarded. It provides a high-level understanding of the major steps and milestones involved in obtaining SWIFIA loans and the order in which those steps occur.

Section 4 – SWIFIA Project Selection describes the SWIFIA program selection phase of the application process, including the LOI submission and evaluation. This section helps state infrastructure financing authorities understand how to submit a complete LOI for a SWIFIA loan and the process used by the WIFIA program to select projects to invite to submit applications.

Section 5 – SWIFIA Project Approval describes the phase of the loan approval process through loan closing. This section helps state infrastructure financing authorities understand how to submit a complete application for a SWIFIA loan and what process and criteria the WIFIA program will use to evaluate and approve a SWIFIA loan. This section also describes the loan closing process, which occurs after prospective borrowers have been approved for a SWIFIA loan, the WIFIA program’s requirements for proceeding to closing, and the structure and purpose of the loan agreement.

Section 6 – SWIFIA 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 with their SWIFIA loan.

Appendix A – Acronyms spells out the acronyms used in the handbook.

Appendix B – Definitions defines key terms used throughout the handbook.

Appendix C – Costs Schedule outlines the costs associated with SWIFIA financing.

¹ Electronic copies of this program handbook, application materials, and additional information regarding the WIFIA Program are located on the [WIFIA website](#).

Appendix D – 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 program

wifia@epa.gov

<http://www.epa.gov/wifia>

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 at <https://tinyurl.com/wifianews>.

SECTION 1: INTRODUCTION TO SWIFIA

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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.² 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 (e.g., 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 on the SWIFIA program and is exclusively geared toward SRFs. To learn more about the WIFIA base program, review the [WIFIA Program Handbook](#).

SWIFIA loans have distinct benefits that are not readily available in the capital markets. The SWIFIA 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 SRFs the advantage of developing customized terms, including sculpted repayment schedules to match the specific needs of a project. Finally, the SWIFIA program lends at a low, fixed interest rate equal to the Treasury rate for a comparable maturity.

Congress enacted the WIFIA program as part of the Water Resources Reform and Development Act of 2014³ (WRRDA) and its subsequent amendments. Chapter 52 of Title 33 of the United States Code

² 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".

³ [P.L. 113-121, § 5022-5035](#)

codifies WIFIA, with supporting regulations appearing in 40 C.F.R. 35 subpart Q⁴. These documents are provided on the [WIFIA program website](#).

⁴ [40 C.F.R. 35 subpart Q](#)

SECTION 2: CREDIT REQUIREMENTS AND POLICIES

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EPA can structure SWIFIA credit instruments to provide low cost, long-term, supplement loans under customized terms to qualified borrowers. 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 loan or other debt obligation issued by a borrower and funded by a third-party lender.

This section summarizes the statutory terms and conditions that apply to WIFIA-secured loans through the SWIFIA program. These terms and conditions support the requirement that projects must be deemed creditworthy by EPA to be eligible for SWIFIA credit assistance.

2.1 STATUTORY TERMS AND CONDITIONS

The WIFIA statute mandates several terms and conditions for SWIFIA credit assistance. These requirements represent threshold inputs to the development of a finance plan and are as follows:

Cost Threshold: For a project to be eligible for credit assistance, the SWIFIA project's eligible costs must be reasonably anticipated to be at least \$20 million.⁵ The SWIFIA project is a combination of Clean Water and Drinking Water SRF-eligible projects for which a State infrastructure financing authority submits a single application. The SWIFIA project includes all the SRF loans being included in the request for credit assistance. This includes both the SRF loans that will be financed with the SWIFIA loan (up to 49% of SWIFIA project costs) and the SRF loans that will be financed by other sources.

Creditworthiness: SRFs applying for a SWIFIA loan must demonstrate a reasonable assurance of repayment of the credit instrument over the term of the requested assistance. In determining 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.

Maximum Amount: The amount of SWIFIA credit assistance may not exceed 49 percent of the reasonably anticipated eligible project costs.

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

Interest Rate: The WIFIA program offers fixed-rate credit instruments. The interest rate of the SWIFIA

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

loan will be no less than the yield on U.S. Treasury securities of a similar maturity on the date of execution of the loan agreement. 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. EPA 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 loan life of the SWIFIA loan, measured from first disbursement.

Maturity Date: The final maturity date of the SWIFIA loan must be no later than 35 years after the first disbursement of funds.

Debt Service Payment Terms: Scheduled payments on the SWIFIA loan shall commence no later than five (5) years after the date of the first disbursement.

Dedicated Source of Repayment: SWIFIA credit assistance 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.⁶ 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 SWIFIA loan.

Security Features: SWIFIA loans shall include a rate covenant, coverage requirement, or similar security features supporting the project obligations.⁷

Prepayment Conditions: A borrower may prepay a SWIFIA loan in whole or in part without penalty at any time.⁸ SWIFIA loans may not be prepaid using federal funds.

Financing Costs: All SWIFIA loans are subject to financing costs, as described in Appendix C, to cover all or a portion of EPA's costs associated with providing credit assistance.

2.2 SWIFIA CREDIT POLICIES

In addition to the terms and conditions outlined above, the SWIFIA program has additional credit policies. This allows EPA to offer a streamlined approach for State infrastructure financing authorities to access loans. SWIFIA loans must be senior loans, on parity with a SWIFIA borrower's other senior capital market debt of the same credit quality, for the perpetuity of the SWIFIA loan.

The SWIFIA program offers two loan structure options:

1. EPA adopts the State infrastructure financing authority's existing capital market debt indenture (to the extent the terms are permissible under Federal law and regulation and WIFIA program policies); or
2. The State infrastructure financing authority accepts EPA's standard terms.

State infrastructure financing authority borrowers seeking customized terms must apply to the [base WIFIA program](#).

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

⁷ [33 U.S.C. § 3908\(b\)\(3\)\(B\)](#)

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

SWIFIA INDENTURE REQUIREMENTS

The following topics should be addressed in the borrower's debt instrument (e.g., indenture):

- Flow of funds
- Distribution or use of excess cash flows
- Maintenance of debt service accounts
- Voting for material amendments to debt instrument
- Mergers and acquisitions of the borrower
- Cures and/or remedies for borrower's failure to satisfy bond security requirements
- Adequate enforcement mechanics (EPA cannot be required to indemnify any party)

SWIFIA STANDARD TERMS

EPA offers the following standard terms to State infrastructure financing authority borrowers without existing bond indentures or that select the standard terms loan structure in their applications.

Additionally, a template term sheet is available on the WIFIA website at

<https://www.epa.gov/wifia/resources-wifia-borrowers>.

DEDICATED SOURCE OF DEBT SERVICE PAYMENT

The borrower's existing and future loan principal and interest (P&I) repayments must be pledged for the payment of debt service. At least 90 percent of existing and future loan portfolio is pledged for the payment of all debt service.

The structure will vary depending on whether all the borrower's bond series are secured by the same pool versus secured on a series-by-series level. For example:

1. If all the SWIFIA borrower's bond series are secured by a large pool of pledged loans in parity, the SWIFIA bond security will also be the P&I repayments from that "large pool" of pledged loans.
2. If SWIFIA borrower's bonds are issued as stand-alone series and secured by certain underlying pledged loans, the SWIFIA bond "primary" security will be the P&I repayments from the underlying pledged loans that SWIFIA supports. This primary security will be exclusive to SWIFIA. The "secondary" security will be the excess P&I repayments from all the other loans in the State infrastructure financing authority's portfolio, after payment of Debt Service on other bond series, if any.

DEBT SERVICE COVERAGE RATIO AND ADDITIONAL BONDS TEST

The minimum debt service coverage ratio and additional bonds test is 1.0. The SWIFIA borrower must demonstrate that it meets this requirement by providing a projected revenue certificate (PRC) showing annual debt service coverage over the life of all outstanding debt.

DEBT SERVICE RESERVE

A debt service reserve is not required unless is it offered to other lenders.

SWIFIA DEBT SERVICE PAYMENT DATES

Debt service payments must be either annual or semi-annual.

USE OF TRUSTEE/PAYING AGENT FOR SWIFIA DEBT SERVICE

Use of a trustee or paying agent for SWIFIA debt service is optional.

SWIFIA REPORTING REQUIREMENTS

The SWIFIA borrower will be required to report the following:

- Annual audited financial statements;
- Reporting to the Electronic Municipal Market Access (EMMA) website or EMMA-like event filings;
- Updated Projected Revenue Certificate (PRC) when additional debt issued or pledged SRF loan are substituted (unless posted to EMMA)
- SRF annual report;
- Borrower substitution of SWIFIA funded project (also see section 9.3); and
- Annual SWIFIA Loan report showing project construction status (%) and any outstanding federal non-compliance (e.g., American Iron and Steel, Davis-Bacon) issues.

LOAN PREPAYMENT

When SRF loans included in the SWIFIA project are pre-paid and the pre-payment does not adversely impact the overall P&I cash flow for debt service coverage, these excess funds may be used by the SWIFIA borrower for new loans rather than prepayment of the SWIFIA loan.

2.3 RIGHT TO REPLACE

Regardless of loan structure, if the SWIFIA borrower elects to replace an eligible SRF loan included in the SWIFIA project with a different SRF loan, the replacement loan must:

- Comply with all applicable federal laws, regulations, and guidance;
- Have received a final Environmental Determination under the National Environmental Policy Act or, in cases where the borrower conforms with the [WIFIA Programmatic Environmental Assessment \(PEA\)](#), the replacement SRF loan must also conform to the PEA; and
- Not reasonably be expected to result in a Material Adverse Effect as defined in the credit agreement.

SECTION 3: LOAN PROCESS SUMMARY

SECTION 3: LOAN PROCESS SUMMARY

This section provides a high-level overview of the loan process for SWIFIA loans. Figure 3-1 illustrates the three phases of the loan process: project selection, project approval, and project monitoring.

FIGURE 3-1: SWIFIA 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. With that appropriation, EPA also announces priorities that help the WIFIA program support the Agency’s mission and strategic goals. EPA announces this funding in WIFIA base program and SWIFIA program Notices of Funding Availability (NOFA) published in the [Federal Register](#) and the [WIFIA program website](#). In the LOI, State infrastructure financing authorities provide information that EPA uses to determine eligibility, creditworthiness, engineering feasibility, and alignment with EPA’s policy priorities. 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.

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 and SWIFIA funding and quicker selection decisions to prospective borrowers.

Phase 2: Project Approval: Each state infrastructure financing authority must submit an application for SWIFIA credit assistance. Using this information, the WIFIA program conducts a detailed evaluation of the project. For the SWIFIA program, the EPA develops the term sheet and loan agreement by either accepting the applicant’s existing capital market debt indenture (to the extent the terms are permissible under Federal law and regulation and WIFIA program policies) or using the SWIFIA template term sheet and loan agreement. Prior to closing, the WIFIA program must receive approval from the EPA Administrator or his designee and OMB. At closing, EPA and the state infrastructure financing authority execute the term sheet, which obligates the SWIFIA funds, and the loan agreement, which is the binding

legal document that allows the borrower to receive SWIFIA funds.

Phase 3: Project Monitoring: Following loan closing, state infrastructure financing authorities must meet several requirements to receive funding and remain in compliance with the loan agreement. This section describes the post-closing activities involving SWIFIA borrowers in three categories: disbursements, loan servicing, and loan monitoring. The executed loan agreement will identify specific requirements pertaining to each loan.

SECTION 4: SWIFIA PROJECT SELECTION

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This section describes the first phase of the SWIFIA program application process, which includes the release of the NOFA, the submission of LOI, the evaluation of LOI, and the determination of whether to invite a state infrastructure financing authority to apply.

Figure 4-1: SWIFIA Program Loan Process Phase 1 - Project Selection



4.1 NOTICE OF FUNDING AVAILABILITY (NOFA)

The initial phase commences with the issuance of a SWIFIA NOFA. EPA will publish the NOFA in the [Federal Register](#) and on the [WIFIA program website](#). Each NOFA will specify the amount of funding available to support SWIFIA credit assistance 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 state infrastructure financing authority prospective borrowers to request financing on their schedule. A rolling selection process allows EPA to provide year-round access to SWIFIA funding and quicker selection decisions to prospective borrowers.

4.2 LETTER OF INTEREST SUBMISSION

State infrastructure financing authority prospective borrowers must submit a LOI pursuant to the instructions articulated in the NOFA to be considered for SWIFIA credit assistance in a selection round.

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

- Validate the eligibility of the prospective borrower and the proposed project; and
- Supply the WIFIA program with information to evaluate the project against the selection criteria defined in the NOFA.

COMPONENTS

The LOI contains the following four (4) sections:

Loan Information: In this section, the prospective borrower provides its legal name, address, website, Unique Entity ID from SAM.gov, and employer/taxpayer identification number. It also indicates its requested SWIFIA loan amount, the estimated total costs of the SWIFIA project, whether the projects

are Clean Water SRF and/or Drinking Water SRF projects, and its requested loan structure.

Supporting Documents: The state infrastructure financing authority provides the most recent version of its Intended Use Plan (IUP), SRF Operating Agreements, documentation of the priority setting system, and the bond indenture (if applicable).

Contact Information: In this section, the state infrastructure financing authority identifies the point of contact with whom the WIFIA program should communicate regarding the LOI. To complete EPA's evaluation, WIFIA program staff may contact the state infrastructure financing authority regarding specific information in the LOI.

Certifications: In this section, the state infrastructure financing authority certifies that it will abide by all applicable laws and regulations, including NEPA, the Federal Water Pollution Control Act, the Build America, Buy America Act requirements, and federal labor standards, among others, if selected to receive financing.

Prospective borrowers should use the form provided on the [WIFIA website](#) to complete their letters of interest. 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 supporting documents to EPA in accordance with the instructions stated in the [NOFA](#).

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. Email wifia@epa.gov confirming that the complete LOI package has been uploaded to the SharePoint site.

After completing its intake process, 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.

4.3 LETTER OF INTEREST EVALUATION

The WIFIA program will invite SWIFIA prospective borrowers to apply based on submitted letters of interest that satisfy the eligibility requirements as described in the NOFA. EPA will only select projects which are reasonably anticipated to be able to meet the eligibility requirements and only offer a loan amount for which the WIFIA program has enough budget authority.

EPA will assess letters of interest by performing an eligibility screening and an evaluation of the selection criteria.

ELIGIBILITY SCREENING

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

and the borrower is creditworthy.

OMB BUDGETARY SCORING DETERMINATION

Projects seeking SWIFIA loans 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. The WIFIA program will provide OMB a response to two initial screening questions and sixteen scoring factors to assist OMB in making 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, 2020⁹. 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 invite a borrower and project to apply until OMB provides a determination that the project complies with budgetary scoring rules.

SELECTION CRITERIA

As required by statute, the WIFIA program evaluates SWIFIA projects using the following ten (10) selection criteria:

1. 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)
2. The extent to which the project serves regions with significant energy exploration, development, or production areas: 33 U.S.C. § 3907(b)(2)(G)
3. 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)
4. The extent to which the project addresses identified municipal, State, or regional priorities. 33 U.S.C. § 3907(b)(2)(I).
5. 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).
6. The extent to which the project uses new or innovative approaches. 33 U.S.C. § 3907(b)(2)(D).
7. 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).
8. 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).

⁹ <https://www.govinfo.gov/content/pkg/FR-2020-06-30/pdf/2020-13889.pdf>

9. The extent to which assistance under [WIFIA] reduces the contribution of Federal assistance to the project. 33 U.S.C. § 3907(b)(2)(K).
10. The amount of budget authority required to fund the Federal credit instrument made available under [WIFIA]. 33 U.S.C. § 3907(b)(2)(E).

INDENTURE REVIEW

If the state infrastructure financing authority requests that EPA adopt its existing indenture, the WIFIA program will review the submitted indenture. The review will focus on identifying any elements that would preclude the WIFIA program from accepting the indenture. The review will focus on the:

- Flow of funds and use of excess cash flow
- Additional bonds test
- Coverage requirement
- Security establishment for senior debt protection
- Defaults and remedies

4.4 PROJECT SELECTION

All eligible SWIFIA prospective borrowers will be invited to apply for a SWIFIA loan in the amount requested in the LOI so long as the WIFIA program has enough funding.

4.5 REVIEW TIMELINE

The project selection process, from submission of a complete LOI package through inviting the SWIFIA prospective borrower to submit an application, takes approximately four (4) weeks. This process is the same for all SWIFIA prospective borrowers. EPA examines and reviews letters of interest beginning immediately after confirmation that a complete LOI package has been submitted.

SECTION 5: SWIFIA PROJECT APPROVAL

SECTION 5: SWIFIA PROJECT APPROVAL

This section describes the process by which EPA approves projects for SWIFIA credit assistance. This is the second phase of the loan process. It includes a description of the steps that SWIFIA prospective borrowers follow to submit an application for SWIFIA credit assistance. It also describes the program's detailed evaluation review, documentation, and approval process, which culminates in the execution of a loan by the EPA Administrator.

Figure 5-1: SWIFIA Program Loan Process Phase 2 - Project Approval



5.1 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 SWIFIA 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.

5.2 APPLICATION SUBMISSION

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

In the application, a prospective borrower provides additional supporting information and provides EPA with the materials necessary to complete its evaluation. 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 D. 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 should be uploaded to WIFIA'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.

COMPONENTS

The following list outlines the elements of a SWIFIA application. However, it is not an exhaustive list of the items that may be required of the applicant. Additional items may be requested on a case-by-case basis. The application contains the following components:

- 1. Key Applicant and Loan Information:** The applicant provides basic information such as its legal name, project name, requested loan amount, estimated total costs of the SRF loans that are included in the SWIFIA Project, anticipated closing date, and contact information. In addition, it provides its Unique Entity ID from SAM.gov, and employer/taxpayer identification number. The applicant also provides information about the quantitative and qualitative benefits of the SWIFIA project, such as environmental, public health and economic benefits and cost savings. The applicant explains its legal structure, legal authority to apply for a loan, approval process. Additionally, it also discloses any current, threatened, or pending litigation.
- 2. Financing Plan:** The applicant indicates its requested loan structure. Two options are available for SWIFIA borrowers. Option 1 is that EPA adopts SRF program's existing capital market debt indenture (to the extent the terms are permissible under Federal law and regulation and WIFIA program policies). Option 2 is that SRF program accepts EPA's standard terms. The option marked must be consistent with the option requested in the LOI. (Note: The form offers a third option, negotiated terms, which is only available to State infrastructure financing authorities applying under the WIFIA base program.) Based on the requested loan structure, the applicant answers the appropriate questions. The applicant provides information about its existing indenture (if applicable), existing debt, and additional bonds tests or other controls in place to mitigate risk. The applicant completes the provided sources and uses table. Additionally, it indicates its proposed terms (e.g., origination and final maturity dates, amortization and repayment schedules) and default tolerance for the loan. The applicant also describes its overall SRF loan portfolio size and outstanding loan debt concentration.
- 3. Supporting Documents:** The applicant submits all documents referenced in the application to support its submission.
- 4. Certifications:** The applicant certifies that it will abide by all applicable laws and regulations.

PRELIMINARY RATING

As a measure of a project's creditworthiness, WIFIA 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 credit instrument) have the potential to achieve an investment-grade rating.¹⁰ 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 SWIFIA loan and considers a comparable amount of debt.

The preliminary rating opinion letter is a credit assessment from an NRSRO that provides a preliminary

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

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.

USE OF EXISTING RATING

The WIFIA program values recently issued public credit assessments on the revenue being pledged to repay the WIFIA loan. To streamline the credit review process, the WIFIA program may accept an existing rating in place of a new, indicative rating on a case-by-case basis. In evaluating whether a previous rating letter for transactions with existing indentures can be accepted in lieu of the new preliminary rating, the WIFIA program will assess whether the following criteria are met:

- The existing credit rating is less than a year old or is actively maintained or monitored;
- The SWIFIA additional debt does not materially change the credit quality of the revenue pledge;
- The existing credit rating opines on the lien proposed for the SWIFIA loan; and
- The existing credit rating is longstanding and investment grade.

FINANCING COSTS¹¹

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 costs¹² can be financed by the WIFIA loan as eligible project costs.

- **Application Down Payment:** For state infrastructure financing authority borrowers, the application fee is \$100,000. The application fee 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 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 down payment required as part of the application process, the WIFIA program may

¹¹ The fee rule can be found in the [Federal Register](#).

¹² <https://www.federalregister.gov/documents/2017/06/28/2017-13438/fees-for-water-infrastructure-project-applications-under-wifia>

charge an optional supplemental fee when deemed necessary¹³.

These costs of financing will be updated in the Federal Register, as appropriate. The costs schedule is provided as Appendix C.

5.3 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 state infrastructure financing authority's application 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 confirm that the application continues to meet the eligibility requirements.

DETERMINATION OF CREDITWORTHINESS

By statute, every project and borrower that receives a SWIFIA loan must be creditworthy. During the creditworthiness review, the WIFIA transaction team evaluates the risk to the government to lending to the applicant 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 all the following:

- Terms, conditions, financial structure, and security features of the proposed financing.
- Dedicated revenue source(s) securing the financing.
- Financial assumptions surrounding the proposed borrower cash flows.
- Financial soundness and credit history and outlook of the borrower.

The following section outlines the framework that will be used to assess each SWIFIA loan application.

CREDIT ASSESSMENT CRITERIA

In general, the WIFIA program will review creditworthiness focusing on the categories outlined below. As noted above, each applicant and program 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

¹³ 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.

provide examples of assessment criteria, but are not meant to be an exhaustive list:

- **Financial Risk Factors:** The WIFIA program will consider the applicant’s financial strengths and risk, such as weighted average default rating, default tolerance, and credit enhancements.
- **Business Risk Factors:** The WIFIA program will assess the strength of the applicant based on factors such as, portfolio size and diversity, portfolio concentration, management experience and operating history, and financial policies, procedures, and internal controls.

These categories are overarching and provide a general framework for the creditworthiness assessment of every application 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 applicant’s engineering review procedures to identify major technical risks that could impact the implementation of SRF projects.

5.4 DOCUMENTATION

Following its review, the WIFIA transaction team will document the loan in a term sheet and credit agreement. Since the SWIFIA loan structure is limited to either EPA adopting an existing indenture or the state infrastructure financing authority accepting EPA’s standard terms, the applicant should not expect to negotiate customized terms with EPA. State infrastructure financing authority borrowers seeking a customized WIFIA loan should apply to the WIFIA base program.

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.¹⁴ 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 SWIFIA 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 SWIFIA loan’s default risk and should contemplate the full life of the SWIFIA loan. In limited circumstances, the final rating requirement may be satisfied by an existing rating on bonds that are on parity with the proposed SWIFIA 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.

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

5.5 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.

5.6 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 letter, as described in Section 5.4.
- Applicable financing documents.

The WIFIA program will schedule the closing once all of 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 SWIFIA funds. Upon execution of the loan agreement, the applicant, now a borrower, must pay the credit processing fee, described in Section 5.2. 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.

5.7 REVIEW TIMELINE

After a state infrastructure financing authority is invited to apply, it has up to one year to submit an application. 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 required 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 will document the terms and conditions for the SWIFIA loan, resulting in a mutually acceptable term sheet and loan agreement. Finally, both entities will obtain necessary approvals to close the loan.

SECTION 6: SWIFIA PROJECT MONITORING

SECTION 6: SWIFIA PROJECT MONITORING

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

Figure 6-1: SWIFIA Program Loan Process Phase 3 - Project Monitoring



6.1 DISBURSEMENTS

Prior to any disbursement, all conditions precedent to funding must be satisfied. The borrower may begin submitting eligible project costs for reimbursement following loan 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 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 an approved SRF project list and other requirements specified in the loan agreement.

Borrowers may request SWIFIA 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.

6.2 LOAN SERVICING

The WIFIA program charges borrowers an annual fee for loan servicing activities associated with each SWIFIA loan. 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. For state infrastructure financing authorities, the annual service fee will be approximately \$8,000-\$12,000. 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.

6.3 LOAN MONITORING

The WIFIA program will take a streamlined approach in project monitoring for state infrastructure financing authority borrowers and will not conduct additional oversight activities that EPA already conducts for its SRF programs. SRF programs have a well-established program with reporting and oversight procedures in place to ensure effective project oversight. These existing management practices help mitigate potential risks to the SRF programs and are likely to minimize project-related risks to the WIFIA program as well. SRF programs:

- Oversee project oversight during design, construction, and completion.
- Annually report financial and project status information to EPA's centralized SRF database.
- Annually (or biennially) report to EPA on SRF program fiscal updates.
- Participate in EPA regional review of program implementation.
- Notify and request EPA assistance on uncured non-compliance issues with federal requirements.

The WIFIA loan agreement will include specific reporting requirements that SRF borrowers will be required to submit for credit and/or loan monitoring purposes. Otherwise, the oversight and reporting mechanisms in place between EPA and the SRF programs are adequate to fulfill WIFIA loan monitoring objectives; therefore the WIFIA program will request SRF program borrowers report additional information or reports only in instances where project-related activities may impact the WIFIA loan, including:

- High-level cost documentation for disbursement requests to verify spending for listed projects. This will support WIFIA's loan disbursement process.
- Uncured non-compliance issues with federal requirements for the listed projects. This will enable the WIFIA program to work as One EPA to support SRFs in remedying compliance issues.
- Project swap-outs if a listed project is determined to be no longer viable. This will support WIFIA's loan disbursement process, as well as communicate the scope of projects under the WIFIA loan.
- Material breaches by the SRF sub-borrower of its loan agreement with the SRF.

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
EMMA	Electronic Municipal Market Access
EPA	United States Environmental Protection Agency
FONSI	Finding of No Significant Impact
IUP	Intended Use Plan
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
P&I	Principal and Interest
P.L.	Public Law
PEA	Programmatic Environmental Assessment
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 employed throughout this handbook.

TABLE B-1: DEFINITIONS

Term	Definition
Administrator	Administrator of the U.S. Environmental Protection Agency.
Applicant	An entity selected to apply for credit assistance following selection by the WIFIA Selection Committee. For SWIFIA, applicants are state infrastructure financing authorities.
Borrower	An eligible entity primarily liable for payment of the principal of or interest on a Federal credit instrument. For SWIFIA, borrowers are state infrastructure financing authorities.
Credit Subsidy Cost	“Cost” under §502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. § 661a(5)), which is the net present value at the time the obligation is entered into. The credit subsidy cost for a given project is calculated by EPA in consultation with OMB. The credit subsidy cost must be less than the unobligated subsidy amount that has been appropriated by Congress to date.
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 state infrastructure financing authority that formalizes the terms and conditions established in the 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 credit assistance. For SWIFIA, prospective borrowers are state infrastructure financing authorities.

Term	Definition
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.
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.
Term Sheet	A contractual agreement between EPA and a state infrastructure financing authority that sets forth the key business terms and conditions of a federal loan.
SWIFIA Credit Assistance	A secured loan or loan guarantee authorized to be made available under the SWIFIA program.

APPENDIX C: COST SCHEDULE

APPENDIX C: COST SCHEDULE

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

TABLE D-1: SWIFIA PROGRAM COSTS¹⁵

Cost	Amount	Specified in Which Document	Applies to Whom
Application Down Payment	\$100,000	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 ¹⁶	As applicable by agreement between WIFIA program and applicant	Loan Agreement	Applicant
Loan Servicing Fee – State infrastructure financing authorities	Approximately between \$8,000 and \$13,000 per year	Loan Agreement	State infrastructure financing authority borrowers
Extraordinary Expenses Fee ¹⁷	As applicable	Loan Agreement	Distressed borrowers

¹⁵ The fee rule can be found in the [Federal Register](#).

¹⁶ 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.

¹⁷ 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 D: CONFIDENTIAL BUSINESS REQUIREMENTS

APPENDIX D: 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.”¹⁸ 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 regulations¹⁹ 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 regulations²⁰. 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.²¹ 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.

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.

¹⁸ [5 U.S.C. § 552\(b\)\(4\)](#)

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

²⁰ [40 C.F.R. Part 2, Subpart B](#)

²¹ [5 U.S.C. § 552\(b\)\(4\)](#)

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
Washington, DC 20004