

# WIFIA/CWIFP FCRA Eligibility for Non-Federal Cost Shares

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The 2020 [WIFIA Criteria Pursuant to the Further Consolidated Appropriations Act](#) were intended to clarify the FCRA budgeting treatment of EPA WIFIA and USACE CWIFP loans for otherwise eligible non-federal cost shares in federally involved water infrastructure projects.

## Why Are the 2020 Criteria an Issue?

FCRA budgeting clarification for non-federal cost shares is necessary, but the 2020 Criteria fail to provide clarity or correct FCRA treatment. As a result, the availability of WIFIA and CWIFP financing for non-federal cost shares is erroneously restricted. The 2020 Criteria:

- Are not in fact criteria, but a series of open-ended questions.
- Indicate that FCRA treatment will be determined by the overall 'project', not the specific facts of the non-federal cost share asset. This is an incorrect understanding of FCRA.
- Ignore the relevant budgeting principles of the 1967 Budget Commission Report.
- Arbitrarily and baselessly exclude many projects with USACE and BoR involvement.

## How Can the Issue Be Fixed?

There are three possible paths to address the issue:

- House bills [HR 5664](#) and [HR 2671](#) propose a WIFIA amendment that will result in correct FCRA treatment. However, CBO punitively scored the same language in prior bill;
- A [modified amendment approach](#) with additional criteria to address CBO's concerns, or;
- A [Congressional Directive](#) which requires OMB, WIFIA and CWIFP to develop revised criteria that are clear and correct.

## Why Now?

- USACE's CWIFP has been funded and is now starting to accept applications. The success of this important loan program will require the eligibility of non-federal cost shares in USACE projects, as intended by Congress.
- More generally, federal infrastructure loan programs will be an increasingly important federal policy tool in uncertain economic and fiscal conditions. They should be prudently managed but not arbitrarily curtailed.