

FCRA Issue: Sense of the House Non-Binding Resolution Draft Language

InRecap 12/21/2023

Resolution

Expressing the sense of the House of Representatives that the ability of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901) to provide loans to statutorily eligible non-Federal borrowers financing statutorily eligible non-Federal cost share assets should not be arbitrarily curtailed by the misinterpretation or misapplication of Federal budgeting procedures under the Federal Credit Reform Act of 1990.

Whereas the criteria published in the Federal Register on June 30, 2020 (85 FR 39189) pursuant to the fourth proviso under the heading “Water Infrastructure Finance and Innovation Program Account” in division D of the Further Consolidated Appropriations Act, 2020 (Public Law 116–94) do not provide clear guidance or explicit criteria for loan program applicants;

Whereas the published criteria arbitrarily exclude consideration of the characteristics of non-Federal borrowers and non-Federal cost share assets;

Whereas the published criteria are exclusively directed to the classification of the overall project in which a non-Federal borrower is participating as “Federal” or “non-Federal” and such classification is not found in, or relevant to, budgeting processes under the Federal Credit Reform Act of 1990;

Whereas the published criteria arbitrarily and erroneously exclude consideration of non-Federal cost share assets in all projects authorized by Congress for the Army Corps of Engineers or the Bureau of Reclamation, and;

Whereas the published criteria do not reference the recommendations contained in Chapter 5 of the 1967 Report of the President’s Commission on Budget Concepts: Now, therefore be it

Resolved, That it is the sense of the House of Representatives that—

- 1) The Director of the Office of Management and Budget together with the Secretary of the Army and the Administrator of the Environmental Protection Agency, and in consultation with the Director of the Congressional Budget Office, jointly review and revise the published criteria;
- 2) The revised criteria provide clear guidance and explicit criteria for program applicants;
- 3) The revised criteria include specific consideration of non-Federal borrowers and non-Federal cost share assets;
- 4) The revised criteria do not contain any arbitrary and erroneous exclusions of non-Federal cost shares in projects in which a Federal agency is authorized to participate, and;
- 5) The revised criteria include explicit consideration of, and reference to, Chapter 5 of the 1967 Report of the President’s Commission on Budget Concepts.