

WIFIA Collusion Risk Amendments in Five Bullets

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Version 2.0

- 1.** The FCRA-specific amendment language in H.R.3035 and S.1760 was adversely scored by CBO several times before because they based their analysis on OMB's FCRA Criteria. The same result is likely this time. A different, non-FCRA-specific approach is required.
- 2.** Collusion between a WIFIA cost-share loan applicant and the federal agency involved in the project is a small, but real-world, possibility. The negative effects of such collusion include the invalidation of FCRA treatment of cost-share loans, regardless of repayment source.
- 3.** WIFIA amendments that address cost-share collusion risk simply improve program due diligence. The amendments simultaneously provide a clear procedure to objectively validate FCRA treatment. Compliance should be easy for non-colluding applicants.
- 4.** CBO scoring of amendments that address collusion risk will necessarily be based on real-world considerations. OMB's FCRA Criteria will not be relevant, and it is impossible to see how requiring additional due diligence will raise WIFIA program cost.
- 5.** Amendments to WIFIA statutes should prompt conforming revisions of current FCRA Criteria. A non-judgmental Congressional directive can accelerate this process and specify, as before, that OMB and WIFIA work together to achieve a mutually acceptable result.