

## “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113–121, set out as a note under section 2201 of this title.

**§ 3904. Eligible entities**

The following entities are eligible to receive assistance under this chapter:

- (1) A corporation.
- (2) A partnership.
- (3) A joint venture.
- (4) A trust.
- (5) A Federal, State, or local governmental entity, agency, or instrumentality.
- (6) A tribal government or consortium of tribal governments.
- (7) A State infrastructure financing authority.

(Pub. L. 113–121, title V, § 5025, June 10, 2014, 128 Stat. 1334.)

**§ 3905. Projects eligible for assistance**

The following projects may be carried out with amounts made available under this chapter:

- (1) Any project for flood damage reduction, hurricane and storm damage reduction, environmental restoration, coastal or inland harbor navigation improvement, or inland and intracoastal waterways navigation improvement that the Secretary determines is technically sound, economically justified, and environmentally acceptable, including—
  - (A) a project to reduce flood damage;
  - (B) a project to restore aquatic ecosystems;
  - (C) a project to improve the inland and intracoastal waterways navigation system of the United States; and
  - (D) a project to improve navigation of a coastal or inland harbor of the United States, including channel deepening and construction of associated general navigation features.
- (2) 1 or more activities that are eligible for assistance under section 1383(c) of this title, notwithstanding the public ownership requirement under paragraph (1) of that subsection.
- (3) 1 or more activities described in section 300j–12(a)(2) of title 42.
- (4) A project for enhanced energy efficiency in the operation of a public water system or a publicly owned treatment works.
- (5) A project for repair, rehabilitation, or replacement of a treatment works, community water system, or aging water distribution or waste collection facility (including a facility that serves a population or community of an Indian reservation).
- (6) A brackish or sea water desalination project, a managed aquifer recharge project, or a water recycling project.
- (7) Acquisition of real property or an interest in real property—
  - (A) if the acquisition is integral to a project described in paragraphs (1) through (6); or
  - (B) pursuant to an existing plan that, in the judgment of the Administrator or the

Secretary, as applicable, would mitigate the environmental impacts of water resources infrastructure projects otherwise eligible for assistance under this section.

(8) A combination of projects, each of which is eligible under paragraph (2) or (3), for which a State infrastructure financing authority submits to the Administrator a single application.

(9) A combination of projects secured by a common security pledge, each of which is eligible under paragraph (1), (2), (3), (4), (5), (6), or (7), for which an eligible entity, or a combination of eligible entities, submits a single application.

(Pub. L. 113–121, title V, § 5026, June 10, 2014, 128 Stat. 1334.)

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**§ 3906. Activities eligible for assistance**

For purposes of this chapter, an eligible activity with respect to an eligible project includes the cost of—

- (1) development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;
- (2) construction, reconstruction, rehabilitation, and replacement activities;
- (3) the acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation (including acquisitions pursuant to section 3905(7) of this title), construction contingencies, and acquisition of equipment; and
- (4) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(Pub. L. 113–121, title V, § 5027, June 10, 2014, 128 Stat. 1335.)

**§ 3907. Determination of eligibility and project selection****(a) Eligibility requirements**

To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria, as determined by the Secretary or Administrator, as applicable:

**(1) Creditworthiness****(A) In general**

The project and obligor shall be creditworthy, which shall be determined by the Secretary or the Administrator, as applicable.

**(B) Considerations**

In determining the creditworthiness of a project and obligor, the Secretary or the Administrator, as applicable, shall take into consideration relevant factors, including—