

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.)

“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.

§ 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 pre-construction 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—

(i) the terms, conditions, financial structure, and security features of the proposed financing;

(ii) the dedicated revenue sources that will secure or fund the project obligations;

(iii) the financial assumptions upon which the project is based; and

(iv) the financial soundness and credit history of the obligor.

(C) Security features

The Secretary or the Administrator, as applicable, shall ensure that any financing for the project has appropriate security features, such as a rate covenant, supporting the project obligations to ensure repayment.

(D) Rating opinion letters

(i) Preliminary rating opinion letter

The Secretary or the Administrator, as applicable, shall require each project applicant to provide, at the time of application, a preliminary rating opinion letter from at least 1 rating agency indicating that the senior obligations of the project (which may be the Federal credit instrument) have the potential to achieve an investment-grade rating.

(ii) Final rating opinion letters

The Secretary or the Administrator, as applicable, shall require each project applicant to provide, prior to final acceptance and financing of the project, final rating opinion letters from at least 2 rating agencies indicating that the senior obligations of the project have an investment-grade rating.

(E) Special rule for certain combined projects

The Administrator shall develop a credit evaluation process for a Federal credit instrument provided to a State infrastructure financing authority for a project under section 3905(8) of this title or an entity for a project under section 3905(9) of this title, which may include requiring the provision of a final rating opinion letter from at least 2 rating agencies.

(2) Eligible project costs

(A) In general

Subject to subparagraph (B), the eligible project costs of a project shall be reasonably anticipated to be not less than \$20,000,000.

(B) Small community water infrastructure projects

For a project described in paragraph (2) or (3) of section 3905 of this title that serves a community of not more than 25,000 individuals, the eligible project costs of a project shall be reasonably anticipated to be not less than \$5,000,000.

(3) Dedicated revenue sources

The Federal credit instrument for the project shall be repayable, in whole or in part, from dedicated revenue sources that also secure the project obligations.

(4) Public sponsorship of private entities

(A) In general

If an eligible project is carried out by an entity that is not a State or local govern-