

the CIFIA program shall be made available for a project unless all iron, steel, and manufactured goods used in the project are produced in the United States.

(2) Exceptions

Paragraph (1) shall not apply in any case or category of cases with respect to which the Secretary determines that—

(A) the application would be inconsistent with the public interest;

(B) iron, steel, or a relevant manufactured good is not produced in the United States in sufficient and reasonably available quantity, or of a satisfactory quality; or

(C) the inclusion of iron, steel, or a manufactured good produced in the United States will increase the cost of the overall project by more than 25 percent.

(3) Waivers

If the Secretary receives a request for a waiver under this subsection, the Secretary shall—

(A) make available to the public a copy of the request, together with any information available to the Secretary concerning the request—

(i) on an informal basis; and

(ii) by electronic means, including on the official public website of the Department;

(B) allow for informal public comment relating to the request for not fewer than 15 days before making a determination with respect to the request; and

(C) approve or disapprove the request by not later than the date that is 120 days after the date of receipt of the request.

(4) Applicability

This subsection shall be applied in accordance with any applicable obligations of the United States under international agreements.

(f) Application processing procedures

(1) Notice of complete application

Not later than 30 days after the date of receipt of an application under this section, the Secretary shall provide to the applicant a written notice describing whether—

(A) the application is complete; or

(B) additional information or materials are needed to complete the application.

(2) Approval or denial of application

Not later than 60 days after the date of issuance of a written notice under paragraph (1), the Secretary shall provide to the applicant a written notice informing the applicant whether the Secretary has approved or disapproved the application.

(g) Development-phase activities

Any Federal credit instrument provided under the CIFIA program may be used to finance up to 100 percent of the cost of development-phase activities, as described in section 16371(4)(A) of this title.

(Pub. L. 109–58, title IX, §999B, as added Pub. L. 117–58, div. D, title III, §40304(a), Nov. 15, 2021, 135 Stat. 991.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

PRIOR PROVISIONS

A prior section 16372, Pub. L. 109–58, title IX, §999B, Aug. 8, 2005, 119 Stat. 917, related to administration of the program under former part J, prior to repeal by Pub. L. 113–67, div. A, title III, §301(a), Dec. 26, 2013, 127 Stat. 1181.

Statutory Notes and Related Subsidiaries

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

§ 16373. Secured loans

(a) Agreements

(1) In general

Subject to paragraph (2), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which—

(A) shall be used—

(i) to finance eligible project costs of any project selected under section 16372 of this title;

(ii) to refinance interim construction financing of eligible project costs of any project selected under section 16372 of this title; or

(iii) to refinance long-term project obligations or Federal credit instruments, if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

(I) is selected under section 16372 of this title; or

(II) otherwise meets the requirements of that section; and

(B) may be used in accordance with subsection (b)(7) to pay any fees collected by the Secretary under subparagraph (B) of that subsection.

(2) Risk assessment

Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate credit subsidy amount for each secured loan, taking into account all relevant factors, including the creditworthiness factors under section 16372(b)(2) of this title.

(b) Terms and limitations

(1) In general

A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines to be appropriate.

(2) Maximum amount

The amount of a secured loan under this section shall not exceed an amount equal to 80 percent of the reasonably anticipated eligible project costs.

(3) Payment

A secured loan under this section shall be payable, in whole or in part, from—

- (A) user fees;
- (B) payments owing to the obligor under a public-private partnership; or
- (C) other revenue sources that also secure or fund the project obligations.

(4) Interest rate**(A) In general**

Except as provided in subparagraph (B), the interest rate on a secured loan under this section shall be not less than the interest rate reflected in the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(B) Limited buydowns**(i) In general**

Subject to clause (iii), the Secretary may lower the interest rate of a secured loan under this section to not lower than the interest rate described in clause (ii), if the interest rate has increased during the period—

- (I) beginning on, as applicable—
 - (aa) the date on which an application acceptable to the Secretary is submitted for the applicable project; or
 - (bb) the date on which the Secretary entered into a master credit agreement for the applicable project; and
- (II) ending on the date on which the Secretary executes the Federal credit instrument for the applicable project that is the subject of the secured loan.

(ii) Description of interest rate

The interest rate referred to in clause (i) is the interest rate reflected in the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan in effect, as applicable to the project that is the subject of the secured loan, on—

- (I) the date described in clause (i)(I)(aa); or
- (II) the date described in clause (i)(I)(bb).

(iii) Limitation

The interest rate of a secured loan may not be lowered pursuant to clause (i) by more than 1½ percentage points (150 basis points).

(5) Maturity date

The final maturity date of the secured loan shall be the earlier of—

- (A) the date that is 35 years after the date of substantial completion of the project; and
- (B) if the useful life of the capital asset being financed is of a lesser period, the date that is the end of the useful life of the asset.

(6) Nonsubordination**(A) In general**

Except as provided in subparagraph (B), the secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(B) Preexisting indenture**(i) In general**

The Secretary shall waive the requirement under subparagraph (A) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture, if—

(I) the secured loan is rated in the A category or higher; and

(II) the secured loan is secured and payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues.

(ii) Limitation

If the Secretary waives the nonsubordination requirement under this subparagraph—

(I) the maximum credit subsidy amount to be paid by the Federal Government shall be not more than 10 percent of the principal amount of the secured loan; and

(II) the obligor shall be responsible for paying the remainder of the subsidy amount, if any.

(7) Fees**(A) In general**

The Secretary may collect a fee on or after the date of the financial close of a Federal credit instrument under this section in an amount equal to not more than \$3,000,000 to cover all or a portion of the costs to the Federal Government of providing the Federal credit instrument.

(B) Amendment to add cost of fees to secured loan

If the Secretary collects a fee from an obligor under subparagraph (A) to cover all or a portion of the costs to the Federal Government of providing a secured loan, the obligor and the Secretary may amend the terms of the secured loan to add to the principal of the secured loan an amount equal to the amount of the fee collected by the Secretary.

(8) Maximum Federal involvement

The total Federal assistance provided for a project under the CIFIA program, including any grant provided under section 16374 of this title, shall not exceed an amount equal to 80 percent of the eligible project costs.

(c) Repayment**(1) Schedule**

The Secretary shall establish a repayment schedule for each secured loan under this section based on—

- (A) the projected cash flow from project revenues and other repayment sources; and
- (B) the useful life of the project.

(2) Commencement

Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) Deferred payments

(A) In general

If, at any time after the date of substantial completion of a project, the project is unable to generate sufficient revenues in excess of reasonable and necessary operating expenses to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) Interest

Any payment deferred under subparagraph (A) shall—

- (i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and
- (ii) be scheduled to be amortized over the remaining term of the loan.

(C) Criteria

(i) In general

Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

(ii) Repayment standards

The criteria established pursuant to clause (i) shall include standards for the reasonable prospect of repayment.

(4) Prepayment

(A) Use of excess revenues

Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan, without penalty.

(B) Use of proceeds of refinancing

A secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) Sale of secured loans

(1) In general

Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(2) Consent of obligor

In making a sale or reoffering under paragraph (1), the Secretary may not change any

original term or condition of the secured loan without the written consent of the obligor.

(e) Loan guarantees

(1) In general

The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan under this section if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as, or less than, that of a secured loan.

(2) Terms

The terms of a loan guarantee under paragraph (1) shall be consistent with the terms required under this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

(Pub. L. 109–58, title IX, §999C, as added Pub. L. 117–58, div. D, title III, §40304(a), Nov. 15, 2021, 135 Stat. 995.)

Editorial Notes

PRIOR PROVISIONS

A prior section 16373, Pub. L. 109–58, title IX, §999C, Aug. 8, 2005, 119 Stat. 921, related to additional requirements for awards, prior to repeal by Pub. L. 113–67, div. A, title III, §301(a), Dec. 26, 2013, 127 Stat. 1181.

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WAGE RATE REQUIREMENTS

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§ 16374. Future growth grants

(a) Establishment

The Secretary may provide grants to pay a portion of the cost differential, with respect to any projected future increase in demand for carbon dioxide transportation by an infrastructure project described in subsection (b), between—

- (1) the cost of constructing the infrastructure asset with the capacity to transport an increased flow rate of carbon dioxide, as made practicable under the project; and
- (2) the cost of constructing the infrastructure asset with the capacity to transport carbon dioxide at the flow rate initially required, based on commitments for the use of the asset.

(b) Eligibility

To be eligible to receive a grant under this section, an entity shall—

- (1) be eligible to receive credit assistance under the CIFIA program;
- (2) carry out, or propose to carry out, a project for large-capacity, common carrier infrastructure with a probable future increase in demand for carbon dioxide transportation; and
- (3) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.