

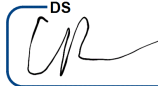





COMMISSION SUMMARY

AGENDA CATEGORY: Finance Department

ITEM NUMBER:

DATE: July 21, 2021

SUBJECT	Local Business Investment & Growth (BIG) Program - Proposed Amendments to Regulation 5.105
SUMMARY	Amendments to the BIG Program are required to allow WSSC Water the flexibility to take advantage of other investments offered by the community banks participating in the BIG program including Insured Demand Deposits.
SPECIAL COMMENTS	N/A
CONTRACT NO./ REFERENCE NO.	N/A
COSTS	N/A
AMENDMENT/ CHANGE ORDER NO. AMOUNT	N/A
MBE PARTICIPATION	N/A
PRIOR STAFF/ COMMITTEE REVIEW	Carla A. Reid, General Manager/CEO 
PRIOR STAFF/ COMMITTEE APPROVALS	Joseph F. Beach, Deputy General Manager for Administration  Patricia A. Colihan, Chief Financial Officer  Amanda Conn, General Counsel 
RECOMMENDATION TO COMMISSION	Approve amendments to BIG Program Regulation 5.105.

WSSC Code of Regulations

Title 5. Financial Management

Subtitle III. Investments and Loans

Chapter 5.105. Local Business Investment and Growth (BIG) Program

5.105.010 Purpose.

The goal of this program is to enhance and economically empower local business lending by placing deposits in community banks headquartered in Maryland or the District of Columbia and operating in Prince George's and Montgomery Counties that are deemed safe and sound in order to generate jobs for the benefit of the residents in both counties, while providing the Washington Suburban Sanitary Commission (WSSC) with a competitive rate of return on those deposits, which will be covered by FDIC insurance.

5.105.020 Definitions.

In this chapter, the following terms have the meanings indicated:

(a) "Certificate of Deposit Account Registry Service (CDARS)" means a U.S. for-profit service that breaks up large deposits (from individuals, companies, nonprofits, public funds, etc.) and places them across a network of more than 3,000 banks and savings associations around the United States.

(b) "Community bank" means a depository institution;

(1) that is operated in Prince George's or Montgomery County;

(2) focused on the needs of the businesses and families where the bank holds branches or loan production offices; and

(3) the aggregate size of the community bank is less than \$15 billion.

(c) **"INSURED DEMAND DEPOSIT OR IDS" MEANS A BANK ACCOUNT:**

(1) FROM WHICH DEPOSITED FUNDS CAN BE WITHDRAWN AT ANY TIME WITHOUT ADVANCE NOTICE;

**(2) THAT PROVIDES FDIC PROTECTION FOR THE FULL AMOUNT OF THE DEPOSIT;
AND**

(3) THAT OFFERS A COMPETITIVE INVESTMENT YIELD.

(D) “Loan production office” means an administrative division of a bank that is focused solely on processing loan requests but does not receive deposits.

[(d)](E) “Local business” means:

(1) a company which provides goods or services to residents or businesses located in Prince George’s or Montgomery County; and

(2) is either a locally owned business (including a franchise) or a corporate branch operating within the two counties.

[(e)](F) “North American Industry Classification System (NAICS)” means the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

5.105.030 Authority.

The local business and investment growth (BIG) program operates as part of WSSC’s investment portfolio and as such must be managed in conformance with federal, state, and other legal requirements, including the Local Government Article, § 17-205, Annotated Code of Maryland, and the State Finance and Procurement Article, § 6-222, Annotated Code of Maryland, which governs the investment of public funds.

5.105.040 Procedure.

(a) *Eligibility Requirement.*

(1) Community banks that maintain their headquarters in Maryland or the District of Columbia and have a branch or loan production office in Prince George’s or Montgomery County are eligible for the BIG program.

(2)(i) At the time of application to participate in the BIG program, the community bank must have assets less than \$15 billion based on asset levels as reported in the most recent Federal Financial Institutions Examination Council (FFIEC) Call Report or Thrift Financial Report (TFR).

(ii) The most recent report will be supplied to WSSC by the bank with the acknowledgment form.

(3) Ratings must fall within the top rating categories as reported by the VERIBANC Rating System, i.e., the rating must be Green* or better for two of the last four quarters.

(4) The bank may not be subject to any agreement with any regulatory agency.

(5) (i) Participating banks will agree to make and maintain business loans, commercial real estate loans or both in an aggregate amount equal to at least 200 percent of the deposits placed in the bank by WSSC under the program.

(ii) Eligible loans must be to businesses located within either or both Prince George's and Montgomery Counties and shall be originated within 12 calendar months of the commitment by WSSC to the participating bank to make deposits under the program.

(b) *Administrative Process.*

(1) WSSC will communicate with all eligible banks, notify them of the BIG program, provide them with a copy of all documentation required by WSSC, respond fully to all questions from eligible banks, request a written indication of each eligible bank's intent to participate and request the execution of an acknowledgment to adhere to the program procedures set forth herein.

(2) The participation level of each bank will be based on the percentage of its capital to the total capital of all participating community banks.

(3) The allocation will be adjusted annually based on the data in the year end (December 31st) FFIEC Call Report or TFR Report.

(4) WSSC Finance Department staff may make adjustments to the allocation of deposits by participating banks consistent with the economic development goals of the program.

(c) *Investment Process.*

(1) At the inception of the program, and upon execution of acknowledgments from all participating banks, WSSC will entertain an offer from all participating banks to accept **IDS** or Certificate of Deposit Account Registry Service (CDARS) certificate of deposits for various maturities.

(2)(i) In no event can the yield offered by participating banks be inconsistent with WSSC's investment policy.

(ii) WSSC will place deposits with the participating banks up to each bank's maximum participation level based on a total BIG program investment to be determined by the Chief Financial Officer (CFO) consistent with the WSSC investment policy.

(3)(i) As the CDARS deposits mature, WSSC will renew the maturing deposits among the participating banks unless the liquidity needs of WSSC, as determined by the CFO, would require a reduction or suspension of this program.

(II) WSSC SHALL CONSIDER MAINTAINING IDS INVESTMENTS AT EXISTING LEVELS BASED ON LIQUIDITY NEEDS AND AVAILABLE INVESTMENT YIELDS.

(4)(i) Participating banks will agree that rates paid on the renewal CDARS of staggered maturities will be based on the United States treasury bill rate with maturities of 13 weeks, 26 weeks, or 52 weeks as of a date to be mutually agreed to by the participating banks and WSSC or Monday's closing United States Treasury constant maturity rate.

(ii) For example, the rates would be the:

1. Twenty-six-week CDARS rate: six-month U.S. Treasury constant maturity; or
2. Fifty-two-week CDARS rate: 12-month U.S. Treasury constant maturity.

(5) Rates paid to WSSC **ON CDARS OR IDS INVESTMENTS** may also be based on a rate mutually agreed to by WSSC and participating banks and will be reevaluated on an annual basis.

(6) WSSC may consider expanding the amount invested in the BIG program based on liquidity needs, diversification of assets and institutions, investment return potential from other asset classes and other factors consistent with WSSC's investment policy.

(d) *Reporting Process.*

(1) One month after the maturity of a CDARS investment each participating bank will provide the following information to WSSC for the prior six or 12 month period:

- (i) Total amount of WSSC deposits under the program including the average balance and the ending balance at maturity;
- (ii) Total dollar value of Prince George's and Montgomery Counties' business and/or commercial real estate loans held at maturity;
- (iii) Total number and outstanding amount of such loans originated in the prior six or 12 month period as a result of the program; and
- (iv) For each loan, the bank will also report the location and the type of business. Business type to be identified by the two-digit North American Industry Classification System (NAICS) code.

(2) THE INFORMATION IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PROVIDED BY PARTICIPATING BANKS OFFERING IDS INVESTMENTS OVER THE SAME TIME PERIOD.

(3) The WSSC Finance Department will use the data provided by the participating banks to produce an annual report documenting the performance of the BIG program from the prior calendar year including:

- (i) Investment income earned from the investments;
- (ii) Estimated jobs created in the local economy by the loans made from deposits; and
- (iii) Total amount of loans made to local businesses from BIG program deposits made over the prior calendar year by business type according to NAICS code.

(e) *Authority.* The General Counsel certifies that the statutory authority for the adoption of the standard procedure codified in this chapter is the Public Utilities Article, § 17-403(a)(1), Annotated Code of Maryland, and the Local Government Article, § 17-204, Annotated Code of Maryland.

Legal Review of Regulation

As requested, the following Regulation has been reviewed as required by Chapter 1.42 of the WSSC Manual of Standard Procedures:

WSSC Code of Regulations
Title 5. Financial Management
Subtitle III. Investments and Loans
Chapter 5.105. Local Business Investment and Growth (BIG) Program

1. Legal Sufficiency Review:

This Regulation has been reviewed and determined to be legally sufficient.

If not legally sufficient, details provided below:

N/A

2. Approval Authority

The Commission has authority to adopt this Regulation.



Amanda Stakem Conn
General Counsel

6/21/21
Date

WASHINGTON SUBURBAN SANITARY COMMISSION

SUBJECT: A RESOLUTION amending provisions of the Business Investment and Growth (“BIG”) Program under Title 5 of the Washington Suburban Sanitary Commission (“Commission”) Code of Regulations 2020.

WHEREAS: The Commission is authorized and empowered to adopt regulations pursuant to §17-403 of the Public Utilities Article of the Annotated Code of Maryland (“PUA”); and

WHEREAS: The Commission instituted the BIG Program in 2017 to assist community banks in providing capital to local businesses; and

WHEREAS: Since its inception, the Program has been successful in meeting the Commission’s objectives of supporting community banks, expanding capital for local businesses and generating competitive returns for WSSC Water; and

WHEREAS: The Commission expanded Program eligibility in May 2021 to allow community banks headquartered in all of Maryland and the District of Columbia with assets less than \$15 billion to allow greater community bank participation because of the challenges of bank consolidation and the expansion of participation generally would also allow more minority banks to participate;

WHEREAS: The Commission desires to permit WSSC Water to invest in Insured Demand Deposit (IDS) accounts with community banks as well as Certificate of Deposit Account Registry Service (CDARS) certificates of deposits to provide greater flexibility with comparable investment yield and security; and

WHEREAS: Revisions to the current Regulations are required to achieve the above objectives.

NOW, THEREFORE, BE IT RESOLVED, this day of July 21, 2021 that the Commission hereby adopts revisions to Chapter 5.105 of Title 5, Financial Management, Subtitle III, Investments and Loans, of the WSSC Code of Regulations; and

BE IT FURTHER RESOLVED, that these revisions shall be effective September 1, 2021; and

BE IT FURTHER RESOLVED, that notice of this resolution and the actions taken hereunder shall be published in at least one (1) newspaper in each county of the WSSD for thirty (30) days prior to the effective date.

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Resolution No. 2022-2296
Adopted: July 21, 2021
Effective: September 1, 2021

A True Copy.

ATTEST:

Julianne MontesDeOca , Esq., Corporate Secretary