

U.S. Army Corps of Engineers Civil Works Infrastructure Financing Program (CWIFP): Status and Issues

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In the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA 2014, Title V, Subtitle C of P.L. 113-121; [33 U.S.C. §§3901-3914, as amended](#)), Congress authorized the U.S. Army Corps of Engineers (USACE) to provide credit assistance to specified eligible entities, in the form of secured or direct loans, for water resource projects. WIFIA 2014 authorized an analogous program for the U.S. Environmental Protection Agency (EPA) for water projects outside of USACE mission areas (see CRS In Focus IF11193, *WIFIA Program: Background and Recent Developments*). This Insight focuses on the authorization, funding, and issues for Congress related to the USACE program.

Though Congress has appropriated funding since FY2017 for EPA's [WIFIA program](#), Congress first funded USACE's program in FY2021 through the Consolidated Appropriations Act, FY2021 (P.L. 116-260). In Division D of that act, Congress created a WIFIA account for USACE and provided \$14.2 million—\$2.2 million for program administration and \$12 million to support credit assistance for nonfederal dam safety projects. USACE refers to the program funded by its WIFIA account as the [Civil Works Infrastructure Financing Program](#) (CWIFP). Congress provided an additional \$75 million to the USACE WIFIA account—\$11 million for program administration and \$64 million to support credit assistance for nonfederal dam safety projects—in the Infrastructure Investment and Jobs Act (IIJA, P.L. 117-58) enacted in November 2021. According to a January 2021 [USACE CWIFP fact sheet](#), “a notice of funding availability and call for preliminary applications will follow publication of the program rule.” As of November 2021, USACE had not published the rules for the program.

CWIFP Project Types, Eligible Entities, and Credit Subsidy

WIFIA 2014 authorized USACE to provide credit assistance to water resource projects with the following project purposes:

- reduction of riverine or coastal storm flood damage;
- restoration of aquatic ecosystems;
- improvement of the inland and intracoastal waterways navigation system;

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- improvement of navigation at a U.S. harbor; or
- a combination of purposes that are supported by the USACE and the EPA WIFIA authorities (e.g., drinking water, wastewater, and/or stormwater system improvements).

USACE describes some of the benefits for borrowers as: rates near U.S. Treasury rates, possible matching of repayment schedules with anticipated cash flows, and repayment periods up to 35 years after construction completion. Entities eligible for CWIFP assistance include (1) a corporation; (2) a partnership; (3) a joint venture; (4) a trust; or (5) a federal, state, local, or tribal government or instrumentality. To receive credit assistance, projects carried out by private entities must be publicly sponsored (33 U.S.C. §3907(a)(4)).

Under the [Federal Credit Reform Act of 1990](#) (P.L. 101-508), appropriations for federal credit programs, such as CWIFP, primarily cover long-term credit subsidy costs (2 U.S.C. §661a). The subsidy costs of such programs reflect potential losses to the government as a result of loan defaults. A project with lower credit risk would consume less of the credit subsidy than a higher credit risk project. The subsidy cost is typically presented as a percentage (i.e., a subsidy rate) and largely determines the amount of loans that can be made available. According to USACE's [Frequently Asked Questions on CWIFP](#), USACE will calculate the subsidy costs on a project-by-project basis at the time of loan obligation.

FY2021 and IIJA CWIFP Funding, Criteria, and Limitations

The volume of direct or secured loans that CWIFP can provide is determined primarily by the appropriations amount and subsidy rate for each loan, as well as any credit assistance cap established by Congress. In P.L. 116-260, Congress capped the total amount of loans supported by the FY2021 CWIFP appropriation at \$950 million. The actual amount of these CWIFP loans may be lower than \$950 million, as it would be determined by various factors, including the subsidy rate for each project receiving assistance. IIJA did not include a cap on the amount of loans supported.

Of the \$89.2 million in funding provided to date, Congress has indicated that \$76 million is specifically to support [dam safety](#) projects for nonfederally owned dams (based on ownership information in the [National Inventory of Dams](#)), with the remaining \$13.2 million for USACE administrative expenses to carry out the program. In providing FY2021 appropriations for CWIFP, Congress directed USACE to assess project eligibility using criteria in a June 30, 2020, *Federal Register* notice by EPA—"Water Infrastructure Finance and Innovation Act Program (WIFIA) Criteria Pursuant to the Further Consolidated Appropriations Act, 2020" (85 *Federal Register* 39189-39191). EPA's notice set out a "Federal Asset Screening Criteria and Process"; it stated that projects authorized for construction by USACE as of June 30, 2020, are not considered WIFIA-eligible. IIJA did not include reference the EPA *Federal Register* notice.

CWIFP Eligibility of Congressionally Authorized Projects

There have been some questions about the eligibility of federally authorized water resource projects for USACE CWIFP assistance. Many congressionally authorized federal water resource projects have purposes eligible under the WIFIA 2014 authorization. These federally authorized water resource projects often require nonfederal sharing in construction costs, and many projects are required to be operated and maintained by nonfederal entities after construction. Congress directed, in [explanatory text](#) accompanying P.L. 116-260, that the Secretary of the Army use part of the CWIFP FY2021 appropriation to issue "guidance to clarify, as Congress intended...that the financial assistance program authorized in WIFIA applies to all non-Federal projects and any authorized project that is non-federally owned, operated and maintained." USACE's [CWIFP website](#) indicates that "Projects must be non-Federally owned, operated, and maintained ... Current criteria issued by the Office of Management and Budget (OMB) regarding

projects authorized by Congress to be constructed by the Army Corps of Engineers or the Bureau of Reclamation prevents these projects from being eligible for WIFIA funding.”

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