

Corps Water Infrastructure Financing Program (CWIFP)

September 22, 2022

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, in the form of secured or direct loans, to specified [eligible entities](#) for water resource projects. USACE's program is called the [Corps Water Infrastructure Financing Program](#) (CWIFP). WIFIA 2014 also authorized an analogous [program for the U.S. Environmental Protection Agency \(EPA\)](#) for water projects outside of USACE mission areas.

CWIFP Program Authority, Implementation, and Funding

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

- reduction of riverine or coastal storm flood damage;
- restoration of aquatic ecosystems;
- improvement of the inland and intracoastal waterways navigation system;
- improvement of navigation at a U.S. harbor; or
- a combination of purposes supported by USACE and EPA WIFIA authorities (e.g., drinking water, wastewater, and/or stormwater system improvements).

[USACE describes](#) some benefits for CWIFP borrowers as interest 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. In FY2021, Congress created a USACE Water Infrastructure Finance and Innovation Program (WIFIP) account and first funded the CWIFP to provide credit assistance. Of the \$96.4 million in enacted funding for WIFIP to date, Congress has indicated that \$81.0 million is specifically to support [dam safety](#) projects for nonfederally owned dams (based on ownership information in the [National Inventory of Dams \[NID\]](#)), as shown in **Table 1**. For FY2023, [the President requested \\$10.0 million](#) for program administration.

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Table I. Water Infrastructure Finance and Innovation Program (WIFIP) Account

(dollars in millions, nominal)

Public Law Funding WIFIP Account	Support for Credit Assistance	Program Administration	Selected Statutory Limitations for Credit Assistance
P.L. 116-260	\$12.0	\$2.2	Nonfederal dam safety projects; credit in accordance with 85 Federal Register 39189
P.L. 117-58	\$64.0	\$11.0	Nonfederal dam safety projects
P.L. 117-103	\$5.0	\$2.2	Nonfederal dam safety projects; credit in accordance with 85 Federal Register 39189

Source: CRS, using enacted bills.

In June 2022, USACE proposed a rule for CWIFP implementation that reflected the enacted appropriations' limitation of lending to only nonfederal dam safety projects ([87 Federal Register 35473](#)). USACE anticipates [accepting preliminary loan applications in spring 2023](#), following publication of a final rule. The first loans are expected to close roughly two years later. According to the proposed rule, CWIFP-eligible entities include various state, local, and tribal government entities and various private entities (e.g., corporations, partnerships, and trusts) that are publicly sponsored ([33 U.S.C. §3907\(a\)\(4\)](#)); federal entities are not eligible. Each project receiving CWIFP assistance would need to cost more than \$20 million and be creditworthy, technically sound, economically justified, and environmentally acceptable. USACE's proposed rule identifies dam removal as an eligible project. The proposed rule also adds CWIFP's selection criteria to the [statutory criteria](#). For example, it proposes as a criterion the extent that a project serves, and spurs economic opportunity for, "economically disadvantaged communities." The proposed rule did not specify how USACE would use individual criteria in selecting projects.

Loan Volume

The volume of direct or secured loans that CWIFP can provide is determined primarily by the appropriations amount and subsidy rate for each loan. 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 due to loan defaults. A project with lower credit risk would consume less of the credit subsidy than a higher credit risk project. The subsidy cost typically is presented as a percentage (i.e., a subsidy rate) and largely determines the amount of loans that can be made available given appropriated funds. [USACE indicates](#) it will calculate subsidy costs on a project-by-project basis at the time of loan obligation. USACE may be able to make up to [\\$7.5 billion in loans](#) with the appropriations available through FY2022. The actual total CWIFP loan amount may differ, given each project's subsidy rate and other factors affecting loan amounts.

Eligibility of Congressionally Authorized Projects

To date, enacted appropriations limit USACE credit assistance to nonfederal dam safety projects. The scope of eligible project purposes authorized in WIFIA 2014 is broader. A policy question for broader WIFIA 2014 implementation has been whether nonfederal costs of authorized USACE construction projects would be eligible for CWIFP. Many [congressionally authorized USACE projects](#) have purposes that are CWIFP eligible pursuant to WIFIA 2014. Congress has [required that nonfederal sponsors share in the cost](#) of many USACE projects and assume responsibility for the projects and their costs after construction.

A June 30, 2020, EPA, Office of Management and Budget, and Department of the Treasury *Federal Register* notice—“Water Infrastructure Finance and Innovation Act Program (WIFIA) Criteria Pursuant to the Further Consolidated Appropriations Act, 2020” (85 *Federal Register* 39189)—identified congressionally authorized USACE (and [Bureau of Reclamation](#)) projects as federal assets and as ineligible for WIFIA assistance. A few months later, in P.L. 116-260, Congress directed USACE to use the criteria in the 2020 *Federal Register* notice for USACE credit assistance supported by the WIFIP account funds. In addition, the House Appropriations Committee, in [explanatory text](#) accompanying P.L. 116-260, encouraged the Secretary of the Army 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.” As shown in **Table 1**, Congress referenced using the 2020 *Federal Register* notice for USACE’s WIFIP funds provided by P.L. 117-103.

The borrower eligibility discussion in USACE’s 2022 proposed rule references the applicability of the 2020 *Federal Register* notice, thereby maintaining that congressionally authorized USACE projects are federal assets. Thus, the proposed rule indicates that nonfederal costs associated with congressionally authorized USACE projects are ineligible for this credit assistance. An issue for Congress is whether to further address CWIFP eligibility of congressionally authorized USACE projects in light of the 2022 proposed rule.

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