



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

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In the Water Resources Reform and Development Act of 2014 (WRRDA2014, P.L. 113-121), Congress authorized the U.S. Army Corps of Engineers (USACE) to provide credit assistance, in the form of secured or direct loans, for a range of water resource projects. This authority was provided in the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA2014, Title V, Subtitle C of P.L. 113-121; [33 U.S.C. §§3901-3914, as amended](#)). WIFIA2014 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*).

While Congress has appropriated funding since FY2017 for EPA's [WIFIA program](#) to provide assistance to projects, it first funded USACE's program in the Consolidated Appropriations Act, FY2021 (P.L. 116-260). In Division D of that act, Congress created a WIFIA account for USACE and provided appropriations to support credit assistance for nonfederal dam safety projects. Recently, USACE has referred to its program as the [Civil Works Infrastructure Financing Program \(CWIFP\)](#).

## CWIFP

WIFIA2014 authorized USACE to provide financial assistance to a suite of water resource projects that encompass several USACE mission areas. It authorized the USACE program (i.e., CWIFP) to support 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;
- 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).

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Several types of projects eligible for CWIFP have historically been [authorized](#) by Congress as federal water resources projects. Financial responsibilities for these projects might take multiple forms. For example, Congress has authorized USACE to construct and operate and maintain some projects, often with a corresponding nonfederal cost-share, while others (e.g., flood control projects) might be authorized by Congress and constructed by USACE, but turned over to local entities to operate. When insufficient federal funding has been available for federally authorized projects, nonfederal entities have sometimes funded the federal portion of project costs themselves. CWIFP appears to provide another financing option for these and other types of water resources projects.

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. 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 the CWIFP [website's](#) Frequently Asked Questions, USACE will calculate the subsidy costs on a project-by-project basis (i.e., a project with lower credit risk would consume less of the credit subsidy than a higher credit risk project).

## FY2021 CWIFP Funding and Criteria

Congress appropriated \$14.2 million for CWIFP for FY2021; of that, \$12 million is specifically to support [dam safety](#) projects for nonfederally owned dams (according to ownership information in the [National Inventory of Dams](#)), with the remaining \$2.2 million for USACE administrative expenses to carry out the program. When the FY2021 appropriation was enacted, USACE had not yet published details on how it would implement CWIFP. In providing FY2021 appropriations for CWIFP, Congress directed USACE to assess project eligibility using 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 39289-39191](#)). 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.

## CWIFP Limitations

As discussed above, the volume of loans and other types of credit assistance that CWIFP can provide is determined primarily by the appropriations amount and subsidy rate assumed 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 CWIFP appropriation at \$950 million. The actual amount of 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.

Since WIFIA 2014, Congress has, through congressional reports accompanying appropriations legislation (e.g., [Joint Explanatory Statement](#) accompanying P.L. 115-244) and in hearings (e.g., Senate appropriations [hearing](#) on the FY2021 USACE budget request), indicated interest in USACE activities to develop CWIFP and in being informed about its development. In P.L. 116-260, Congress directed the Secretary of the Army to report to the appropriations committees within 30 days of enactment with an analysis of how the program’s subsidy rates will be determined, along with a comparison to WIFIA subsidy rates, and an “analysis of the process” for developing the program’s regulations and timetable for their development.

## CWIFP Eligibility of Congressionally Authorized Projects

Some recent WIFIA and CWIFP developments, including [Congressional Budget Office](#) cost estimates for WIFIA proposals involving federal projects, have been of interest. Regarding CWIFP eligibility for congressionally authorized USACE projects, Congress directed, in [explanatory text](#) accompanying P.L. 116-260, that the Secretary use part of the CWIFP 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.” Part of what USACE may clarify in its reporting (and other relevant actions) for CWIFP is the eligibility of USACE constructed works that have had their ownership transferred to nonfederal entities for operation and maintenance, such as local flood control levees. These determinations may be an important factor for future CWIFP appropriations and project awards.

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