

Infrastructure Investment and Jobs Act (IIJA) Funding for U.S. Army Corps of Engineers (USACE) Civil Works: Policy Primer

August 12, 2021

Congress authorizes and funds the U.S. Army Corps of Engineers (USACE) to undertake civil works activities, including planning and construction of water resource projects and maintenance of navigation improvements and other infrastructure (e.g., multipurpose dams). USACE has an estimated \$109 billion construction backlog, as well as authorized but unfunded investigations and operations and maintenance (O&M) activities.

Division J, Title III, of H.R. 3684, the Infrastructure Investment and Jobs Act (IIJA), as passed by the Senate on August 10, 2021, would provide \$17.1 billion in emergency appropriations to various USACE accounts (see **Figure 1**), with the majority going to three accounts:

- Construction (68%)
- O&M (23%)
- Mississippi River and Tributaries (MR&T, 5%)

IIJA also would provide the following:

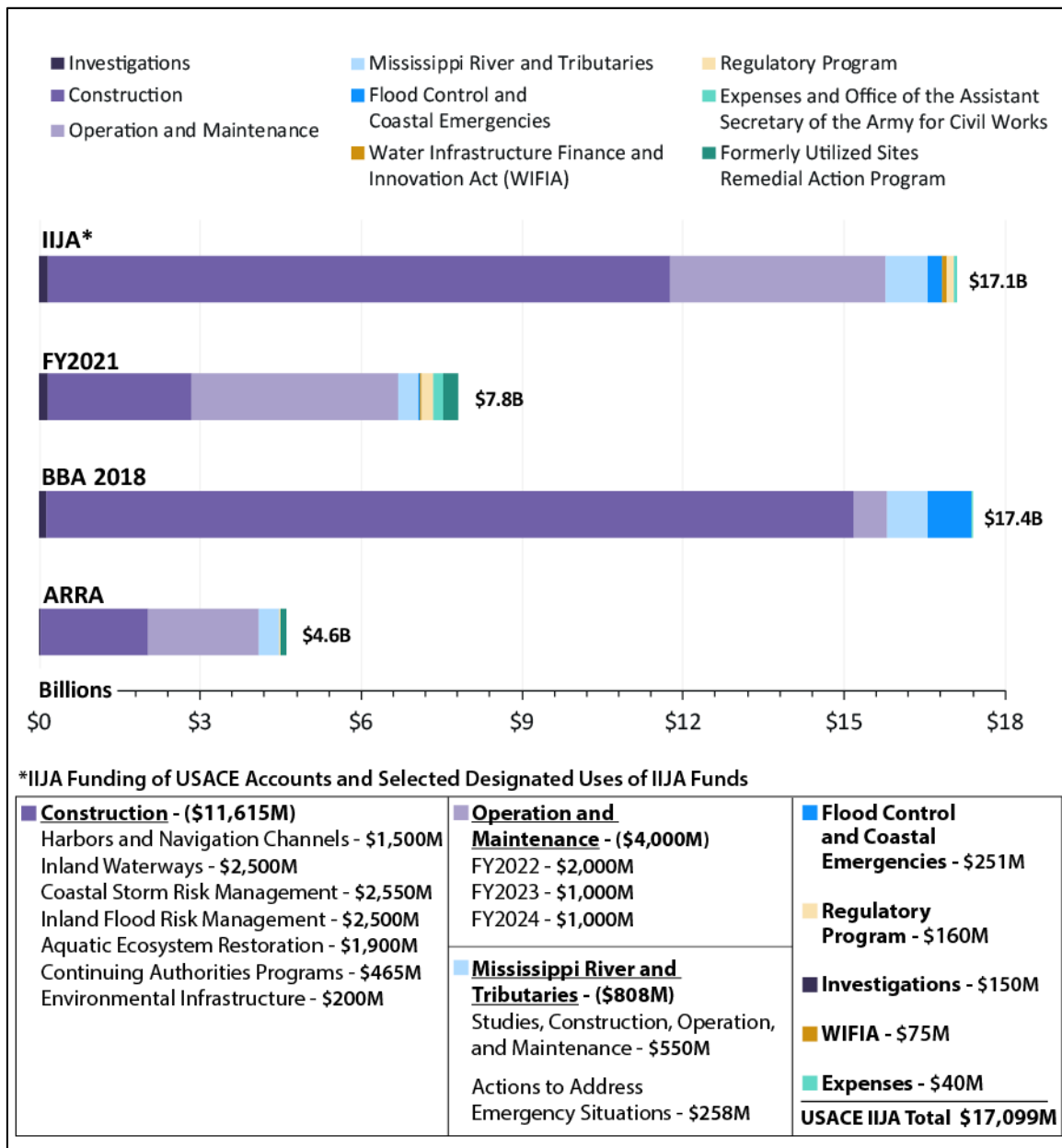
- \$251 million for repair of damages to existing projects, including nonfederal levees and shore protection through the Flood Control and Coastal Emergencies (FCCE) account
- \$75 million to the [Water Infrastructure Finance and Innovation Act \(WIFIA\)](#) account for [USACE](#) to implement a direct loan and loan guarantee program, which IIJA would limit to nonfederal dam safety work (similar to a limit applied to FY2021 appropriations).

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IN11723

Figure 1. IIJA's USACE Funding in Context of Other USACE Appropriations and Selected IIJA Designated Uses, by Account

(amounts are nominal and in billions [B] or millions [M] of dollars)



Sources: CRS, using H.R. 3684 (as passed by the Senate), P.L. 116-260 (Consolidated Appropriations Act, 2021), P.L. 115-123 (Bipartisan Budget Act of 2018, BBA 2018), and P.L. 111-5 (American Recovery and Reinvestment Act of 2009, ARRA).

IIJA Funding in Context

Figure 1 shows IIJA funding in the context of annual appropriations and two emergency appropriations:

- [FY2021 annual civil works appropriations](#) (Division D, Title I, of P.L. 116-260)

- [Bipartisan Budget Act of 2018](#) (BBA 2018; P.L. 115-123), which funded USACE flood disaster repair and recovery and flood risk management studies and projects
- American Recovery and Reinvestment Act of 2009 (ARRA; P.L. 111-5), which funded USACE activities for purposes of economic stimulus and other policy objectives

As shown in **Figure 1**, IIJA funding would provide funding equal to multiple years of annual appropriations, in particular for the Construction account. Below are some project types that IIJA would fund, with FY2021 funding levels provided in parentheses:

- \$2.50 billion for inland waterways construction (\$0.81 billion)
- \$2.55 billion and \$2.50 billion for risk management of coastal floods and inland floods (\$0.81 billion and \$0.36 billion), respectively
- \$1.90 billion for aquatic ecosystem restoration (\$0.56 billion)
- \$465 million for [continuing authorities programs](#) (\$69.5 million)
- \$30 million in FY2023 for a new USACE pilot program for flood risk management feasibility studies for economically disadvantaged or rural communities

Similar to other emergency appropriations legislation, IIJA would not apply some requirements and limitations (see **Table 1**).

Table 1. Selected Requirements and Policies Applied to Certain USACE Funding

Statutory Requirements or Other Policies (Source)	IIJA	FY2021	BBA 2018	ARRA
Project Costs and Starts				
Limit to increases in project cost without obtaining congressional authorization (33 U.S.C. §2280)	Not applied	Applied	Not applied	Not applied
Limit to number of construction starts ^a (annual appropriations bills)	Not applied	Applied (limit was seven new starts)	Not applied	Applied ^b (no new starts)
Trust Fund Contributions				
Harbor Maintenance Trust Fund (HMTF) pays eligible harbor maintenance costs (33 U.S.C. §2238)	Not applied	Applied	Applied	Applied
Inland Waterways Trust Fund pays a portion of certain waterway construction costs (33 U.S.C. §2212; §109, Division AA, of P.L. 116-260)	Not applied	Applied	NA (construction funds were for flood activities)	Not applied
Nonfederal Construction Cost Share (e.g., 33 U.S.C. §§2211-2213 for most water resource projects)				
Ongoing construction	Applied ^c	Applied	Not applied	Applied
New construction	Applied ^c	Applied	Applied (waived for Puerto Rico and U.S. Virgin Islands)	Applied
Nonfederal Share of Costs for Repair of Certain Damaged Flood Control Works (33 U.S.C. §701n)				
Repairs to damaged shore protection	Not applied	Applied	Not applied	NA
Other eligible repairs (e.g., inland levees)	Applied	Applied	Applied	NA

Sources: CRS, using H.R. 3684 (as passed by the Senate); P.L. 116-260; P.L. 115-123; P.L. 111-5; the U.S. Code; U.S. Congress, House Committee on Transportation and Infrastructure, *Recovery Act: One-Year Progress Report for Transportation and Infrastructure Investments*, hearing, 111th Cong., 2nd sess., February 23, 2010 (Washington, DC: GPO, 2010), p. 102; and USACE, *ARRA Financial and Operational Review Report*, undated.

Notes: NA = Not applicable.

- a. Congress limited the number of new starts in USACE annual appropriations from FY2014 to FY2021.
- b. The Administration interpreted ARRA as limiting new construction starts and providing for HMTF contributions.
- c. IIJA would maintain nonfederal construction cost-share requirements, except for certain projects and assistance related to restoring fish and wildlife passage.

Next Steps If IIJA Is Enacted

IIJA includes account-specific language regarding reporting to the congressional appropriations committees. IIJA would require the USACE Chief of Engineers to deliver

- *Spend plans* within 60 days of enactment on how IIJA funds available in FY2022 are to be used for the Investigation, O&M, and MR&T accounts and how IIJA funds available in FY2022, FY2023, and FY2024 are to be used for the Construction account
- Monthly reports on allocations and obligations for the Investigations, Construction, and MR&T accounts, beginning within 120 days of enactment
- Spend plans as part of the President's FY2023 budget request for IIJA FY2023 Investigations and O&M funds and FY2024 budget request for IIJA FY2024 O&M funds

IIJA indicates that spend plans are to include project locations and identification of new starts. These spend plans may share characteristics with [BBA 2018](#) and the [USACE work plans that have followed annual appropriations in recent years](#). IIJA would not require reporting for IIJA's FCCE and WIFIA funds or activities.

Issues for Congress may include USACE implementation of IIJA funds and long-term oversight of this implementation. Implementation concerns have arisen with USACE emergency appropriations at times. For example, an August 2021 Senate Appropriations Committee report, S.Rept. 117-36, identified shortcomings in the pace and approach to managing BBA 2018 construction funding and compliance with required BBA 2018 reporting. According to an August 9, 2021, [Congressional Budget Office \(CBO\) cost estimate](#) for S.Amdt. 2137 to H.R. 3684, USACE outlays for IIJA-funded activities may span beyond a decade; CBO estimated USACE outlays of 57% of the \$17.1 billion by FY2031.

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