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# Continuing Authorities Programs (CAPs) of the U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers (USACE) can study and construct certain water resource projects of limited size, cost, scope, and complexity without project-specific congressional authorization. USACE performs this work under its programmatic authorities, known as *continuing authorities programs* (CAPs). There are CAPs for various purposes, as shown in **Table 1**. CAPs typically are referred to by the section number of the law authorizing the CAP. For most CAP authorities, Congress has limited projects' federal cost. As part of the annual Energy and Water

Development appropriations process, CAPs typically are funded by a line item for each CAP in the USACE Construction account. Because CAPs typically are funded as a program, USACE often has discretion regarding which CAP projects to fund using the appropriations provided. At times, Congress has specified individual CAP projects to receive appropriations through community project funding/congressionally directed spending (CPF/CDS) items (e.g., in FY2022-FY2024 annual appropriations).

**Table 1. USACE CAPs Funded by FY2024 Enacted Annual Appropriations (P.L. 118-42) in Millions of Dollars**

CAP	Project Types	Nonfederal Construction Cost Share	Federal Limit per Project	Annual Federal Program Limit	FY2024 Annual Approp.
§14	Emergency streambank erosion and shoreline protection of public works and nonprofit services (33 U.S.C. §701r)	35%	\$15.00	\$50.00	\$5.00
§103	Shore protection/beach erosion control (33 U.S.C. §426g)	35%	\$15.00	\$62.50	\$0.50
§107	Navigation improvement (33 U.S.C. §577)	Varies <sup>a</sup>	\$15.00	\$62.50	\$1.50
§111	Mitigation (and prevention) of shore damage by federal navigation projects (33 U.S.C. §426i)	Same as the project causing the damage	\$15.00	No limit specified	\$2.10
§204	Beneficial use of dredged material (33 U.S.C. §2326) <sup>b</sup>	35% <sup>b</sup>	\$15.00 <sup>b</sup>	\$62.50	\$18.00
§205	Flood control projects, including ice jam prevention (33 U.S.C. §701s)	35%-50% for structural; 35% for nonstructural	\$15.00	\$90.00	\$12.00
§206	Aquatic ecosystem restoration and drought resilience through wetlands restoration or invasive species removal (33 U.S.C. §2330)	35%, except 85% for anadromous fish projects	\$15.00	\$75.0	\$8.00
§208	Removal of obstructions and clearing channels for flood control (33 U.S.C. §701g)	35%	\$10.00 <sup>c</sup>	\$15.00	\$0.25
§1135	Project modifications for improvement of the environment and drought resiliency (33 U.S.C. §2309a)	25%	\$15.00	\$62.00	\$7.50

**Sources:** CRS, based on statutes; USACE, "Planning: Continuing Authorities Program," Engineer Pamphlet 1105-2-58; explanatory statement accompanying the Consolidated Appropriations Act, 2024 (P.L. 118-42), and Water Resources Development Act of 2024 (P.L. 118-272, Division A; WRDA 2024).

**Notes:** CAP = continuing authorities program; NA = not applicable; USACE = U.S. Army Corps of Engineers. Section 1108 of WRDA 2024 authorized a new CAP for projects to control, retain, and reuse stormwater associated with flood control; project costs are limited to \$10 million federal, and 35% of construction costs are nonfederal.

- Cost share varies based on depth: at the time of construction, 10% for improvements less than 20 ft. deep, 25% between 20 ft. and 50 ft., and 50% for more than 50 ft., plus an additional 10% over a period not to exceed 30 years. Cost share is 50% for recreational navigation.
- Projects consist of regional sediment management to reduce storm damage, protect aquatic ecosystems, and improve environmental conditions (§204) and beneficial use of dredged material from federal water resource projects (§204(d)). Limit of 35% nonfederal cost share for costs beyond the base disposal plan costs (which is 100% federal cost of the least costly typical disposal), \$15.0 million federal limit per construction activity, and \$15.0 million per beneficial use/placement under §204(d). Multiple placements allowed under §204(d).
- \$500,000 limit for any tributary in a fiscal year.

## Initiating a CAP Project

To initiate a CAP project, USACE typically requires a nonfederal sponsor (e.g., local government or nonprofit entity with local government consent) to send a letter to the local USACE district describing the water resource problem and requesting assistance with a project. (Many USACE district websites include letter templates.) USACE determines whether there is federal interest in a project, if the project fits under a CAP authority, and whether funding is available. Although USACE does not need any additional authorization to perform projects under CAPs, Congress has referenced specific CAP projects in some omnibus USACE water resources authorization bills (i.e., Water Resources Development Acts, or WRDAs).

## Project Process: Study and Construction

Once funded, CAP projects generally take two to three years for the study phase. The construction phase often takes two to five years. During the study phase, USACE identifies various approaches to address the problem and develops initial cost estimates, environmental impact analyses, and a real estate evaluation, among other project formulation actions. The study phase typically consists of developing a *feasibility report* as the decision document, in which USACE identifies the preferred project plan. For CAP projects, project design and construction can immediately follow the study phase (i.e., without project-specific congressional authorization), subject to the availability of appropriations. Design and construction include final project design and specifications, real estate acquisition, project contracting, and physical construction.

## Nonfederal Responsibilities

The CAP authorities require the nonfederal sponsor to share project study and construction costs and to assume other responsibilities, including obtaining real estate interests. The CAP study phase is initially federally funded up to \$100,000. Thereafter, the remaining study cost share for most CAPs is 50% nonfederal, with some exceptions. For example, studies under the Section 204 CAP require no nonfederal cost share. For studies under Section 111, after the first \$100,000 in costs (which are federally funded), costs are shared at the same ratio as in construction of the navigation project causing the damage.

Before construction begins, the nonfederal sponsor and USACE sign a *project partnership agreement*. Cost sharing for construction varies by CAP authority, as shown in **Table 1**. Nonfederal sponsors often may fulfill cost-share contributions with cash; work-in-kind credit; and/or lands, easements, rights-of-way, relocations, and disposal areas. Upon construction completion, USACE transfers the project to the sponsor, which is responsible for operations, maintenance, and most repairs and rehabilitation (except for the general navigation feature improvements under the Section 107 CAP).

In some cases, Congress has provided for certain CAP project costs to be undertaken at a higher federal cost share (e.g., 33 U.S.C. §2310 for territories and tribes, and 33 U.S.C. §2267b for post-disaster watersheds). In addition,

Congress authorized a “community revitalization program” for USACE to carry out projects at 100% federal cost under various CAPs for economically disadvantaged communities (§165(a) of WRDA 2020, as amended). Congress included projects pursued under CAP Sections 14, 103, 204, 205, 206, 208, and 1135 under this program and an annual authorization of appropriations of \$150 million.

## Alternative Delivery Pilot

In Section 1107 of P.L. 118-272, Congress authorized a 10-year pilot program for “alternative delivery” of 25 CAP projects for FY2025 through FY2032. Alternative delivery may include the nonfederal sponsor leading the project and being paid the federal share of project costs at the start of construction. The authority also allows alternative processes for real estate crediting/auditing, contracting options for design and construction, and use of return on federal investment for the project’s economic justification.

## Appropriations for CAPs

In FY2024, the CAPs referenced in **Table 1** received an aggregate of \$54.85 million. Of this amount, Congress directed a total of \$2.05 million to 11 specific CAP projects through CPF/CDS items. For more on USACE appropriations, see CRS Report R46320, *U.S. Army Corps of Engineers: Annual Appropriations Process*. In addition to the FY2024 appropriations for the CAPs, the explanatory statement accompanying P.L. 118-42 assigned \$34.8 million of previously enacted CAP appropriations that were unobligated and unallocated to the FY2024 Construction account. Some supplemental appropriations acts also have funded CAPs or specified that up to a certain amount of construction appropriations be used for CAPs. For example, in December 2024, P.L. 118-158 provided \$100 million for CAPs to reduce flood risk and storm damage and waived program cost limitations. President Biden’s FY2025 request for CAPs was \$17.50 million.

## Policy Considerations

CAP-related oversight and policy considerations include how efficiently and effectively USACE is implementing CAP projects. According to USACE, it completed 3 CAP projects in FY2023 and 16 in FY2024. Otherwise, there is little publicly available data on how long CAP projects take from initiation to completion, what is being accomplished with the appropriated funds, and the demand for CAP projects.

## Other Small Project Authorities

Apart from the regularly funded CAPs, Congress has established other authorities that share many CAP characteristics or are authorized in conjunction with CAPs. For a discussion of these, see CRS Report R47946, *Process for U.S. Army Corps of Engineers (USACE) Projects*.

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**Nicole T. Carter**, Specialist in Natural Resources Policy  
**Anna E. Normand**, Specialist in Natural Resources Policy

**IF12635**

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