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Land and Water Conservation Fund (LWCF): Frequently Asked Questions

What Is the Land and Water Conservation Fund?
The Land and Water Conservation Fund Act of 1965 (LWCF Act; 54 U.S.C. §§200301 et seq.) was enacted to help preserve, develop, and ensure access to outdoor recreation resources. The law created the Land and Water Conservation Fund (LWCF) in the Treasury as a dedicated funding source to implement its stated outdoor recreation goals. Similar to other special funds, the LWCF is an accounting mechanism to link dedicated receipts with the spending of those receipts.

How Does the LWCF Get Revenue?
The LWCF Act credits the LWCF with revenues totaling $900 million annually. The revenues come from three sources: (1) surplus federal property sales, (2) the federal motorboat fuel tax, and (3) revenues from oil and gas leasing on the U.S. outer continental shelf (OCS). Since the early 1990s, nearly all revenues deposited in the LWCF have been from OCS receipts. In addition to the $900 million, the LWCF receives 12.5% of the revenues from qualified OCS leases, up to a specified cap, under the Gulf of Mexico Energy Security Act of 2006 (GOMESA; P.L. 109-432, Div. C, §105). The maximum for LWCF under GOMESA is $162.5 million for each of FY2025-FY2034.

Is LWCF Funding Discretionary or Mandatory?
All revenue in the LWCF is available without further appropriation and thus is mandatory spending. Prior to the 2020 enactment of the Great American Outdoors Act (GAOA; P.L. 116-152), the revenue under the LWCF Act was available only if appropriated in subsequent law and thus was considered discretionary spending. The revenue under GOMESA has always been mandatory.

Does the LWCF Expire?
No. There is permanent authority for the fund to accrue and spend revenue.

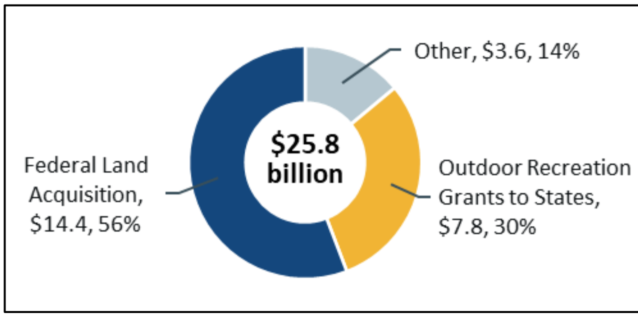
What Can Money in the LWCF Be Used For?
Of the total funding under the LWCF Act and GOMESA, the LWCF Act mandates that not less than 40% is to be used for "federal purposes" and not less than 40% is to be used to provide "financial assistance to states" (54 U.S.C. §200304(b)). The primary federal purpose is land acquisition by four agencies: Bureau of Land Management (BLM), U.S. Fish and Wildlife Service, U.S. Forest Service, and National Park Service (NPS). Of the annual appropriations under the LWCF Act, a specified portion (not less than 3% or $15.0 million, whichever is greater) is to be used for acquisitions that foster access to federal land for recreational purposes (54 U.S.C. §200306(c)).

With regard to "financial assistance to states," the LWCF Act sets out a state matching grant program for outdoor recreation (54 U.S.C. §200305). It provides for formula (traditional) grants. Appropriations laws also have funded competitive state grants, and P.L. 118-234, the EXPLORE Act, authorized a competitive program (in Section 156).

In addition, the LWCF can be used for "accounts and programs" that received appropriations from the LWCF under P.L. 116-94, the Further Consolidated Appropriations Act, 2020 (54 U.S.C. §200303(a)). That law contained appropriations for the Forest Legacy Program, Section 6 of the Endangered Species Act (i.e., Cooperative Endangered Species Conservation Fund grants), the American Battlefield Protection Program, and the Department of the Interior's Appraisal and Valuation Services Office.

The $900 million in revenue under the LWCF Act can be used for all purposes discussed in this section (e.g., land acquisition, outdoor recreation grants to states, and other programs). By contrast, revenue under GOMESA is directed only to the formula grant program under "financial assistance to states." (Formula grants also have received funding under the LWCF Act.) **Figure 1** shows the historical LWCF appropriations by major purpose.

Figure 1. LWCF Appropriations, FY1965-FY2026 Total Under LWCF Act and GOMESA
(in billions of dollars, not adjusted for inflation)



Sources: FY1965-FY2013: Department of the Interior, Office of Budget. FY2014-FY2026: annual *Interior Budget in Brief* and documents accompanying the annual appropriations bill.

How Is the $900 Million Allocated?
The LWCF Act prescribes a procedure for allocating the $900 million in annual revenue under the LWCF Act (54 U.S.C. §200303(c)). The President is to include "detailed account, program, and project allocations" for the full amount available, generally as part of the annual budget submission to Congress. The law also provides that appropriations acts may specify an "alternate allocation," including "allocations by account, program, and project." If

alternate allocations are not enacted before enactment of "the Act making full-year appropriations for the Department of the Interior, Environment, and Related Agencies for the applicable fiscal year," the President has the authority to make allocations. For FY2021-FY2024, and FY2026, allocations in appropriations laws differed in some respects from each Administration's proposals. These laws also contained direction on use of LWCF funds. According to some agencies, the Trump Administration allocated FY2025 LWCF funding because P.L. 119-4 did not do so.

Is There Any Money Currently in the LWCF?
Yes. From FY1965 through FY2026, about $48.1 billion has been credited to the LWCF under both the LWCF Act and GOMESA. More than half that amount—about $25.8 billion—has been appropriated, leaving an unappropriated balance of approximately $22.3 billion in the fund. (Figures were derived primarily from data provided by the Department of the Interior.) The balance accumulated because through FY2020, the $900 million in revenue that accrued annually under the LWCF Act was available only if appropriated in subsequent law; annual appropriations laws typically appropriated considerably less than the full deposit. The balance remains credited to the fund until appropriated or otherwise reduced by law.

What LWCF Changes Were Made in Recent Years?
GAOA made the $900 million in annual revenue for the fund (under the LWCF Act) available as mandatory spending; before GAOA, these funds were available only if appropriated in subsequent law. GAOA also provided direction on the purposes for which the funding can be used. It set out a procedure for allocating the funding, delineating the roles of the President and of Congress.

Section 3001 of P.L. 116-9, the John D. Dingell, Jr. Conservation, Management, and Recreation Act, made permanent the LWCF Act provisions that provided for $900 million in revenue to be deposited in the fund annually (54 U.S.C. §200302). To foster parity between federal and state purposes, the law provided that not less than 40% of funding be used for each of "federal purposes" and "financial assistance to states" and specified a portion of funding for recreational access acquisitions. Other amendments identified criteria for agencies to consider in selecting lands to acquire, such as management efficiencies and recreational value, and altered the apportionment of funds for the state grant program to treat the U.S. territories and the District of Columbia (DC) the same as states. The Outdoor Recreation Legacy Partnership Program (ORLPP) was established in P.L. 118-234.

Does the LWCF Authorize Agencies to Acquire Land?
The LWCF provides funding for agency land acquisitions. However, the LWCF Act bars appropriations from the fund from being used for acquisition "unless the acquisition is otherwise authorized by law" (with an exception for certain preacquisition work [54 U.S.C. §200306(b)]). The four major federal land management agencies' authorities to acquire lands derive from other laws and differ among the agencies; they range from relatively broad general authority (BLM) to no general authority (NPS).

How Does the State Outdoor Recreation Grant Program Work?
The LWCF provides grants to states (including DC and U.S. territories) for outdoor recreation purposes. Federal payments to states generally are limited to 50% or less of a project's total costs. The state project sponsor bears the remaining cost.

NPS administers two types of grants—formula (traditional) and competitive. The LWCF Act sets out the formula grant program under "Financial assistance to States" (54 U.S.C. §200305). The program receives appropriations under both the LWCF Act and GOMESA. The Secretary of the Interior divides appropriations among states in accordance with a formula in the LWCF Act (54 U.S.C. §200305(b)) that requires a portion of the appropriations to be divided equally among states. The remaining funds are apportioned based on need, as determined by the Secretary, taking into account certain factors. In practice, state population has been the biggest factor. States can use formula grants for outdoor recreation planning, acquisition of lands and waters, and facility development.

The LWCF Act does not specify a competitive grant program. However, appropriations laws since FY2014 funded competitive grants, which the NPS awarded through an administratively established ORLPP. Later, in P.L. 118-234, Congress authorized an ORLPP as a competitive grant program for states (and other entities, e.g., Tribes) for land acquisition or development in urbanized and other areas. In awarding grants, NPS is to prioritize projects that engage and empower low-income communities and youth, and establish or expand public-private partnerships, among other factors. Another competitive grant program—the Readiness and Recreation Initiative (RARI)—is funded in part by LWCF. RARI seeks to enhance recreational opportunities near military installations. It is administered by NPS in partnership with the Department of Defense (which is using a secondary Department of War designation under Executive Order 14347).

Both formula and competitive grants must meet certain criteria prescribed in the LWCF Act. For instance, states must use lands for outdoor recreation in perpetuity, except with approval by the Secretary of the Interior for conversion to another use (54 U.S.C. §200305(f)(3)).

What Are Issues for Congress Related to the LWCF?
Opinions differ regarding how to allocate LWCF funds between state and federal programs, and among federal agencies for acquisitions; and whether to prioritize acquisitions in fee or partial interests, such as easements. Another focus has been on the fund's purposes, including whether to broaden (e.g., H.R. 4985; H.R. 5134/S. 2708), narrow (e.g., H.R. 841), or otherwise alter the purposes (e.g., H.R. 105). Still other questions center on sources of revenue for the fund (e.g., H.R. 6674), components of state outdoor recreation plans (e.g., H.R. 1261), and limitations on state grants (e.g., H.R. 841, H.R. 5036). Further, Congress continues to review the Administration's selection of LWCF federal land acquisition projects (pp. 10-11 of H.Rept. 119-687 on H.R. 9171) and oversee program administration.

Carol Hardy Vincent, Specialist in Natural Resources Policy

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