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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 Department of the Treasury as a dedicated funding source to implement its stated outdoor recreation goals. Similar to other special funds in the federal budget, 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 leases 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 is \$125 million annually in most years.

Is LWCF Funding Discretionary or Mandatory?

All revenue in the LWCF is available without subsequent appropriation and thus is mandatory spending. Prior to the 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.

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 the four major federal land management agencies: Bureau of Land Management (BLM), U.S. Fish and Wildlife Service, Forest Service, and National Park Service (NPS). Of the annual appropriations under the LWCF Act, a 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)).

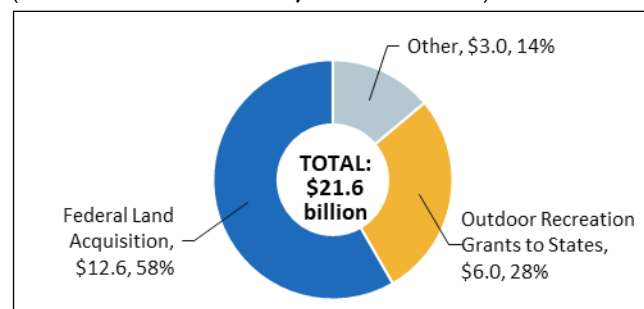
With regard to “financial assistance to states,” the LWCF Act sets out a state matching grant program for outdoor

recreation (54 U.S.C. §200305). It provides for formula (traditional) grants. Appropriations laws also have funded competitive grants to states. (For more information on formula and competitive grants, see “How Does the State Outdoor Recreation Grant Program Work?”)

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-FY2022
(in billions of dollars, not adjusted for inflation)



Sources: FY1965-FY2013: Department of the Interior, Office of Budget. FY2014-FY2022: annual *Interior Budget in Brief* and documents accompanying the annual appropriations bill.

How Is the \$900 Million Under the LWCF Act 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. However, 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.

Is There Any Money Currently in the LWCF?

Yes. From FY1965 through FY2022, about \$43.9 billion has been credited to the LWCF under both the LWCF Act and GOMESA. Nearly half that amount—about \$21.6 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, Office of Budget.) 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. The balance is to remain credited to the fund until appropriated or otherwise reduced by law.

What Changes Were Made Recently to the LWCF?

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. Further, the law set out a procedure for allocating the funding, delineating the roles of the President and of Congress. (See “How Is the \$900 Million Allocated?”)

Section 3001 of P.L. 116-9, the John D. Dingell, Jr., Conservation, Management, and Recreation Act, made permanent the LWCF Act provisions that provide 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 (see “What Can Money in the LWCF Be Used For?”). 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.

Does the LWCF Authorize Agencies to Acquire Land?

The LWCF is primarily a funding source for land acquisitions. The LWCF Act bars appropriations from the fund from being used for acquisition “unless the acquisition is otherwise authorized by law,” although appropriations can be used for pre-acquisition work under certain circumstances (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 U.S. territories and DC) 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, although appropriations laws since FY2014 have provided LWCF Act funding for competitive grants. (Competitive grants do not receive funding under GOMESA.) NPS has awarded grants pursuant to these appropriations through an Outdoor Recreation Legacy Partnership Program. Under grant announcements for the program, states can use the grants for land acquisition or development in urbanized areas meeting certain criteria. Criteria have prioritized areas underserved in terms of outdoor recreation and areas with sizeable populations that are economically disadvantaged, among other factors.

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

What Are Issues for Congress Related to the LWCF?

Various issues have been under debate. Opinions differ regarding how to allocate LWCF funds among current programs, and there is debate over whether to alter the fund’s purposes to broader, narrower, or different priorities (e.g., facility maintenance). Another area of focus is whether to codify in law the Outdoor Recreation Legacy Partnership Program, which makes competitive grants to states for outdoor recreation, and the terms and conditions of any such program. Congress also continues to oversee the Administration’s development and implementation of LWCF guidance, the selection of projects that receive LWCF monies, and administration of the program.

For Further Reading

CRS Report R46563, *Land and Water Conservation Fund: Processes and Criteria for Allocating Funds*

CRS Report RL33531, *Land and Water Conservation Fund: Overview, Funding History, and Issues*

CRS Report R46957, *Recreational Access Acquisitions: Overview and Recent Funding History*

CRS In Focus IF11636, *The Great American Outdoors Act (P.L. 116-152)*

CRS Report RL34273, *Federal Land Ownership: Acquisition and Disposal Authorities*

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