

- This oversight sometimes causes delays in sponsors receiving funds assigned to their airports.
- Revising the statutory requirements for AIP to shift FAA oversight from grant applications to post-expenditure audits would expedite conveyance of funds to sponsors.

## II. WATER INFRASTRUCTURE

The below water infrastructure provisions would incentivize the development of effective and efficient water infrastructure, outcome-based procurement, and full life-cycle asset management to improve water infrastructure. These changes would provide greater flexibilities for USACE and its non-Federal partners to use available Federal and non-Federal funds, generate new revenues and retain certain revenues in support of project requirements, make greater use of contributed funds, and allow for innovative use of contracting tools.

### A. Financing

1. *Authorize Clean Water Revolving Fund for Privately Owned Public-purpose Treatment Works*
  - Current law allows the DWSRF to lend to private owners. However, the Clean Water State Revolving Fund (CWSRF) is generally restricted to publicly owned wastewater projects.
  - Privately owned public-purpose treatment works are not eligible for CWSRF funding at the Federal level.
  - Authorizing the CWSRF (33 U.S.C. 1383) to provide financial assistance to publicly owned and privately owned public-purpose treatment works would make more funding available for treatment works.
2. *Provide New Flexibility for Water Projects with De Minimis Federal Share*
  - Under current law, even when a State or private sector entity provides the majority of the funding for a project, a project must still obtain review and approval under the laws of any Federal agency with jurisdiction.
  - The additional procedures, costs, and time delays associated with Federal requirements discourage infrastructure investments by State and local entities and private investors. These legal restrictions also contribute to delays in delivering needed projects even when the Federal interest is small.
  - Amending the law to provide targeted flexibility pertaining to the application of Federal requirements where the project funding is primarily non-Federal and the Federal share is minimal would increase investments in water infrastructure and reduce project delays and costs.

### B. Water Programs

1. *Provide EPA Infrastructure Programs with “SEP-15” Authorizing Language*
  - Currently, the EPA Administrator has limited authority to test and experiment within its programs.
  - This limits the EPA’s ability to explore new approaches that might increase project management flexibility, increase innovation, improve efficiency, assure timely project implementation, and develop new revenue streams.
  - Providing the EPA Administrator authority (similar to 23 U.S.C. 502) to encourage tests and experimentation in the water projects development process to permit the Administrator to explore alternative and innovative approaches to the overall project development process and to develop more effective approaches to project planning, project development, finance, design, construction, maintenance, and operations.
2. *Apply Identical Regulatory Requirements to Privately Owned Public-purpose Treatment Works and Publicly Owned Treatment Works*
  - Currently, different requirements may apply to privately versus publicly owned treatment works.
  - This creates an unnecessary market distortion that puts private treatment works under more stringent and costly regulatory requirements than public sector equivalents, despite both serving public communities.
  - Modifying the Clean Water Act to ensure identical requirements apply to privately owned public-purpose treatment works and publicly owned treatment works would provide a level playing field for all service providers.

**C. Inland Waterways**

1. *Expand Authority Related to Non-Federal Construction and Operation of Inland Waterways Projects*
  - Currently, Congress individually authorizes inland waterways projects to be constructed, maintained and operated by USACE. Only USACE is authorized to use funds appropriated from the Inland Waterways Trust Fund (IWTF) or from the General Fund (GF) of the Treasury for construction, repair, rehabilitation, maintenance, and operation of inland waterways projects. Fuel taxes paid by commercial users of the inland waterway system contribute to the IWTF, which pays for 50 percent of construction and major rehabilitation on the system, with the rest coming from the General Fund; once completed, project maintenance and operations are entirely paid for from the General Fund.
  - This means that only USACE can perform construction and operations, even if there is a less costly alternative. In addition, this constrains projects to USACE operational capacity limits, which has resulted in a backlog of projects and deferred maintenance, lower operational effectiveness, and increased down time of waterway assets.

- Authorizing the Secretary of the Army to execute agreements with non-Federal public or private entities to use IWTF and GF funds for construction, repair, rehabilitation, maintenance and operation activities, and the ability to enter into third party contracts, concessions, and operating agreements, would enable greater innovation and efficiency by allowing non-Federal entities a greater role in performing work on these projects.

#### **D. Water Infrastructure Resources**

##### **1. *Authorize User Fee Collection and Retention under the WRRDA Section 5014 Pilot Program and Recreation User Fees for Operation and Maintenance of Public Facilities***

- Currently, neither the Federal Government nor non-Federal service providers have authority to impose user fees under the water infrastructure pilot program authorized under Section 5014 of the Water Resources Reform and Development Act (WRRDA) of 2014. When user fees are permitted, they are sent to Treasury once collected, not returned to operate and maintain the site from which they were generated.
- Without a dedicated revenue source, innovative partnerships are nearly impossible to execute because third parties would be subject to appropriation risk. This risk makes transactions uneconomical and highly unlikely to close. Aging infrastructure at USACE-managed recreation sites is in need of significant repair and rehabilitation, and annual USACE appropriations have not been sufficient to address long-term operation and maintenance needs and safety concerns.
- Authorizing the Federal Government and third party service providers to impose and retain fees under WRRDA to use or defray costs associated with carrying out a project would enable effective infrastructure partnerships. This proposal would limit application to no more than ten projects and would specify that the respective non-Federal interests indemnify and hold the Federal Government harmless as a result of non-Federal actions, including that the Federal Government assumes no responsibility for costs of said non-Federal actions. Amending the law (16 U.S.C. 460d-3) to provide USACE the authority to retain recreation user fees generated at USACE-managed recreation sites and facilities would enable USACE to address the backlog of infrastructure, public safety and visitor use management needs at sites where user fees are collected.

##### **2. *Expand U.S. Army Corps of Engineers' Authority to Engage in Long-term Contracts***

- Current law generally restricts the award of multi-year contracts to a period of no more than five years.
- Infrastructure asset contracts typically are much longer than five years, and therefore the cost and risk associated with five-year contracts creates a cost and resource prohibitive barrier to successful transactions.

- Extending the contract period to allow the Secretary of the Army to enter into contracts for a period up to 50 years would enable USACE to enter into long-term contracts that encompass the full life-cycle management of infrastructure assets in the program (Section 5014 of WRRDA). This amendment would specify that the respective non-Federal interests indemnify and hold the Federal Government harmless as a result of non-Federal actions, including that the Federal Government assumes no responsibility for costs of said non-Federal actions.
3. *Authorize Commercial Operation and Maintenance Activities at Hydropower Facilities*
- Current law defines operation and maintenance activities at hydropower facilities undertaken by Civil Works personnel as of the date of enactment of the Water Resources Development Act of 1990 as inherently governmental and not commercial activities. (Section 314 of the Water Resources Development Act of 1990; 33 U.S.C. 2321).
  - This designation creates unnecessary bureaucracy and restricts open competition that leads to excess costs for operations that can easily be done at a lower cost and more efficiently.
  - Amending the law to restore the authority of the Secretary of the Army to determine whether operation and maintenance functions at hydropower facilities on USACE projects are commercial activities and appropriate for performance by non-Federal entities would increase the opportunity for open competition and lead to more efficient operations and maintenance.
4. *Deauthorize Certain Federal Civil Works Projects*
- Currently, all USACE projects remain authorized in perpetuity. This includes completed projects that are under USACE control but are approaching the end of their service life, as well as projects that were built by USACE but are operated and maintained by non-Federal entities. Extensive regulatory and statutory compliance provisions apply to non-Federal sponsors associated with USACE projects, including Section 14 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. 408, commonly referred to as “Section 408”).
  - These provisions can make local alterations to federally constructed projects expensive and difficult, as even simple modifications to a Federal project by an applicant trigger a Section 408 review, which increases the costs to both the Government and the applicant.
  - Amending the law to establish a streamlined deauthorization process that allows for those USACE projects approaching the end of their service life and for those projects operated and maintained by non-Federal interests that do not require Federal oversight would release Federal and non-Federal resources to be used for other purposes.
5. *Expand Authority for Acceptance of Contributed and Advanced Funds*

- A non-Federal sponsor can provide non-Federal funds to the Federal Government through contributed and advanced funds, to advance investments in infrastructure. However, under current law, the process to accept contributed and advanced funds is protracted and limited by several factors.
- Projects therefore suffer years of delay, unable to take full benefit of a willing sponsor to provide non-Federal funds.
- Amending the law (33 U.S.C. 701h) to expand authority for the acceptance of contributed funds even if no Federal funds have been appropriated for the authorized project, changing individual notifications to an annual reporting requirement, and expanding applicability of advanced funds authority to all authorized water resources development studies and projects would increase non-Federal spending and expedite project execution.

6. *Amend Water Resources Development Act to Allow for Waiver of Cost Limits*

- Current law provides a maximum total cost for congressionally authorized projects.
- Projects that exceed the cost limitation (Section 902 of the Water Resources Development Act of 1986) require authorization by Congress to raise the maximum total project cost, which can add significant delays in delivering infrastructure projects.
- Amending the law to allow the maximum total cost limitation to be waived upon the recommendation of the Secretary of the Army would provide flexibility to avoid delays in delivering infrastructure projects.

### III. VETERANS AFFAIRS

The following provisions would provide flexibility to the Department of Veterans Affairs (VA) to use the value of its existing assets to provide our Nation's veterans the state-of-the-art facilities they deserve. The VA has a nationwide physical footprint that includes aging facilities. While the physical assets owned by the VA are growing outdated, the underlying property values continue to increase.

A. **Provide VA Real Property Flexibilities**

- ***Authorize VA to retain proceeds from sales of properties and exchange existing facilities for construction of new facilities.*** Under current law, the VA cannot retain the proceeds from sales of its properties, nor can the VA exchange its existing facilities for the construction of new facilities. This hinders the VA's ability to make needed capital improvements, including new construction and renovations. Authorizing the VA to retain proceeds from sales of its properties and exchange its existing facilities or land for new construction would provide the VA flexibility to better fulfill its mission, including making capital improvements for new construction and renovations and for funding lease or service costs in a facility.