



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

SACW

1 April 2020

MEMORANDUM FOR THE COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

SUBJECT: Delegation of Authority - Approval Levels for Section 14 Decision Documents, Locally Preferred Plans, and Costs in Excess of Federal Project Limit

1. References:

- a. ER 1105-2-100, Planning Guidance Notebook.
- b. EP 1105-2-58, Continuing Authorities Program.

c. Implementation Guidance for Section 1167 of the Water Resources Development Act of 2018, Costs in Excess of Federal Participation Limit, dated 12 April 2019.

2. The Continuing Authorities Program (CAP) consists of a group of nine legislative authorities under which the Secretary of the Army plans, designs, and implements certain types of water resources projects without additional project specific congressional authorizations. Because they are limited in size, cost, scope and complexity, CAP projects should be completed in an accelerated manner as compared to specifically authorized projects. The actions I am instituting today are intended to improve the efficiency and effectiveness of the CAP by allowing for further delegation of authority to approve certain aspects of the program down to the most appropriate level within the Army, reducing review and process time, thereby enabling more timely decisions.

a. Approval authority for Section 14, Flood Control Act of 1946, Emergency Streambank and Shoreline Protection. Currently, Headquarters, U.S. Army Corps of Engineers (HQUSACE) has authority to approve decision documents for Section 14 projects with no policy deviations. Headquarters has further delegated approval to the Major Subordinate Command. To realize anticipated benefits, I hereby authorize and encourage you to consider delegation of this approval authority down to a level no lower than the District Commander. However, consistent with paragraph 14(f) of EP 1105-2-58, I retain the authority to approve Section 14 decision documents involving a deviation from policy.

b. Locally Preferred Plan Approval Authority. You are hereby delegated the authority to approve policy waivers for the Locally Preferred Plan (LPP) within the CAP.
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You have my full support to further delegate this approval authority down to a level no lower than the Division Commander. Consistent with current policy, for those cases in which the LPP has costs in excess of the NED or NER plan, the decision document shall describe and compare the NED or NER plan and the LPP, highlighting all differences. Additionally, the non-Federal sponsor must pay all costs over the Federal share of the NED or NER plan, and the LPP must have outputs similar in kind, and equal to or greater than the outputs of the Federal plan.

c. Cost in Excess of Federal Participation Limit. A basic tenant of the CAP is that large or complex projects — where the likely cost of the solution will be beyond the scope of CAP — shall not be pursued using this authority. A District Commander cannot initiate a CAP study, knowing the construction costs will exceed the per-project Federal cost limits established by Congress. However, if it is estimated that the Federal share would exceed the applicable per-project limit, and this estimated exceedance is discovered before the execution of the Project Partnership Agreement (PPA) the non-Federal sponsor may offer to contribute funds for any costs that would normally be part of the Federal share but are over the per-project limit and the District Commander may prepare a written justification supporting a policy waiver. With these tenants in mind, you are hereby delegated the authority to approve policy waivers for CAP projects for which the Federal share would otherwise exceed the Federal cost limit by no more than 50% based on total project costs. Again, to maximize anticipated benefits, I encourage you to consider further delegation of this approval authority down to a level no lower than the Division Commander to approve policy waivers for CAP projects which the Federal share would otherwise exceed the Federal cost limit by no more than 25% based on total project costs. Please note that I am retaining approval authority regarding policy waivers for projects that exceed 50% of the Federal cost limit based on total project costs. Your authority is further limited to cases where the non-Federal sponsor has agreed to be responsible for all study and construction costs that exceed the Federal participation limit. Under no circumstances may you approve the allocation of Federal funds in excess of the per-project limit to a CAP project.

3. As with any delegation of authority, you remain responsible for actions taken consistent with these approval authorities. If you elect to delegate your authority consistent with this memorandum, you may further restrict or condition the delegate's exercise of authority. Should conditions warrant, you might suspend the use of or rescind further delegation of the authority, as is appropriate in your judgment. These delegations must be implemented appropriately, and you are directed to develop procedures to validate the qualifications of planning, engineering, legal and other technical staff at Districts and MSCs to perform delegated reviews and approvals. Such procedures may include, but are not limited to, review of qualifications of staff, SACW

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recordkeeping and reporting requirements. These procedures shall be forwarded to my office upon issuance. Moreover, you shall ensure that annual audits are performed to evaluate compliance with established procedures and policies. All audits shall be furnished to my office within 30 days of completion.

4. Within 90 days from the date of this memorandum, you shall amend EP 1105-2-58 and related guidance consistent with the actions herein. These delegations of authority are effective immediately and supersede all previous delegations of this authority without prejudice to any prior actions. These delegations shall remain in effect for three (3) years from the date of this memorandum unless earlier rescinded, cancelled, or reissued in writing.

5. If there are any questions, please contact Robyn Colosimo at (202) 761-0017.

A handwritten signature in blue ink that reads "R. James". The signature is cursive and stylized.

R.D. JAMES
Assistant Secretary of the Army
(Civil Works)

CF:
DCG-CEO
DCW