

Updated September 2022

Policy and Legal Compliance Review Manager Roles and Responsibilities

Introduction

This document is intended to provide a general guide as to the specific roles and responsibilities of the Policy and Legal Compliance (P&LC) Review Manager (RM) throughout the duration of the feasibility study including the completion of the Chief's or Director's Report. The guiding principle of the USACE Civil Works review process is "that independent review is essential and consistent review policy must be applied across all Civil Works phases (ER 1165-2-217)". As there is no formal position description for the RM team leader, this document also supports the evaluation and selection of a RM to perform these critical tasks. A separate document – "Feasibility Study Vertical Coordination: Key HQ and MSC Tasks" includes additional details on HQUSACE RIT and MSC roles in relation to the RM role.

The RM has a critical role in supporting issue resolution and consequently decision makers in efficiently executing quality products, including those seeking authorization from Congress and the Administration. As the review team leader, the role is significantly different from other technical review functions, as the P&LC review team is the only comprehensive team that is assembled to provide decision quality assurance as part of the review of decision documents and all related supplemental requirements supporting a Chiefs Report or Directors Report. For this reason, the review manager and review team are provided a level of independence from production and detailed execution requirements. The PL&C review team's responsibilities include providing an independent review and facilitating collaborative and efficient issue resolution to confirm legal and policy compliance that culminates in the Documentation of Review findings by the RM that supports the recommendation of the Chief of Engineers.

The RM serves as a unifying voice and representative of the policy and legal compliance review team and the Washington Level Review (if applicable) in communicating back to all levels of the organization (from the district up through leadership at HQUSACE) throughout the course of the study, and as such must be aware of and understand the details of the study and all policy and legal issues that have been raised. In this capacity, it is their responsibility to not only be engaged as an active reviewer but to also communicate, facilitate, and reconcile issues with the review team members that crossover between different disciplines and quickly elevate them to decision makers as necessary for resolution. The RM must also be able to coordinate and facilitate resolution of any issues with the Agency Technical Review and District Quality Control leads as needed. The RM provides impartial and unbiased recommendations, advice, and support to decision makers that may require incorporating additional input from subject matter experts outside of the P&LC review team. The RM, as well as the rest of the P&LC review team, works collaboratively with, but should be uninfluenced by the District, MSC, and HQ command structure, and provides unfiltered, unedited, and expert views on policy and legal compliance concerns in preparation for the next level of administrative decision-making by ASA(CW) and OMB (see 2019-01 DPM, SUBJECT: Policy & Legal Compliance Review).

Review Manager Roles and Responsibilities

Note: The numbered list is not necessarily a sequential list as some tasks are done concurrently.

1. If a new study is established, requiring the assignment of a review team, or a new reviewer needs to be assigned for an existing study, the process for the selection of review team members will follow the Policy and Legal Compliance Review (P&LCR) Director's Policy Memorandum (DPM). The DPM also specifies the process for the selection of one of the assigned reviewers to serve as the RM. There may be a rare circumstance where a RM is selected from outside of the already assigned reviewers; in such a case the RM must still be a fully qualified plan formulation, economics, or environmental policy reviewer and must still review the report themselves. The capability assessment and selection of the RM is determined and approved by the Chief of OWPR in consultation with the MSC Planning Chief. It is preferred, but not required, that the RM should be appointed from outside of the home MSC.
2. RM duties prior to draft report:
 - a. The RM will be the Point of Contact (POC) for the P&LCR team.
 - b. RM communicates with the HQ Regional Integration Team (RIT) and/or MSC POC, depending on the study approval delegation, as necessary, to ensure that the study is progressing as scheduled and to identify and resolve potential policy issues as early as possible.
 - c. The RM should participate in In Progress Reviews, Issue Resolution Conferences, and milestone meetings.
3. Once a review is initiated, the RM will make sure all members of the review team are aware of the review deadline and any other relevant issues. The review team provides comments to the RM. The review period is generally the three weeks after the completed document package has been logged in for review. Holidays, end-of-year use or lose, and the length of the report will be considered when determining the due dates for the review. Team members' comments shall follow the four-part comment structure. If comments are not provided in the four-part structure, the RM will ask the reviewer to revise the comments.
4. If the review materials are voluminous or there are other circumstances necessitating the extension of the review period, the RM will consult the appropriate OWPR team lead for non-delegated studies (FRM/CSRM – PF team lead; ECO/Watershed – ENV team lead; NAV/Water Supply – ECON team lead) or the MSC Planning Chief for delegated studies to determine if additional time is needed. Any decrease to the review period must be done in consultation with the Chief of OWPR. If the report includes an EIS, the review team will be provided additional time to review, commensurate with the length of the NEPA review.

5. During the review period, the RM coordinates with review team to ensure that deadlines are met.
6. Once comments are received, the RM will review the comments, working with team members to clarify any issues or discrepancies, including elevating issues if necessary. If comments from more than one reviewer are similar, the RM will work with the reviewers to consolidate the comments.
7. The RM consolidates comments into the Project Guidance Memorandum (PGM) (Enclosure 1) and drafts the transmittal memo to be signed by the appropriate OWPR team lead (see # 5) for non-delegated studies or the MSC Chief of Planning and Policy for delegated studies. In consolidating comments in the PGM, the RM should make any proofreading edits if needed, and generally try to ensure that formatting of comments between the different reviewers is similar. These documents are emailed to the applicable MSC and/or RIT with copies to the review team by the recorded due date. If the review was logged in initially with the OWPR Program Manager, the RM will notify the Program Manager of the completion of the review.
8. Prior to the Agency Decision Milestone (ADM) the RM will lead the review team in working with the RIT, MSC, and PDT to develop a path forward to resolve all policy comments. This may include additional or modified actions after the review team has evaluated the District's assessment of ATR, agency and public comments, and IEPR comments (if applicable) received during the review of the Draft Report. The RM will coordinate with the ATR lead as needed to resolve any conflicts between those reviews. The PDT will provide responses in writing to all policy comments on the draft report. The review team will provide written assessments of those responses. Some comments may be provisionally resolved and closed (pending ultimate review of the Final Report). Others may require additional analyses and coordination during feasibility level of design. These discussions will be summarized by the district and captured in the PGM prior to the ADM. Written responses to the PGM must be provided to the RIT or MSC POC in a sufficient amount of time prior to the scheduled ADM to ensure time to determine an agreed-upon path forward on all the comments and prevent any delays to the ADM. Reviewers will provide assessments of the PDT's responses and the RM will incorporate these assessments into the PGM and provide them to the PDT to ensure clarity on the path forward to resolving comments. The RM should be invited to or included in any meetings or e-mail communications between the PDT and PLCR team to resolve comments.
9. The RM will participate in the ADM and shall be prepared to discuss, if requested, the policy review comments, the agreed upon path forward, and the risk to the scope, schedule, budget, and identified TSP. In preparation, the ADM presentation developed by the district will be reviewed and coordinated with the review team in advance to highlight any policy related concerns being presented. If there are disagreements regarding policy matters, the RM is responsible for noting them at the ADM. The RM should be able to

represent the views of the entire policy and legal compliance review team, including any members who are unable to attend the ADM.

10. Between the ADM and the submission of the final report, the RM will work with the rest of the vertical team to assist the PDT's timely completion of the final report based on the path forward agreed upon at the ADM. The PDT will update the draft report PGM based on feasibility level design by adding their updated responses to the P&LCR team assessments. The updated PGM is included by the PDT in the final report transmittal package.
11. Once the District transmits the final report, the RM will have the same responsibilities as indicated in items 3-7 above. Additionally, the RM will coordinate closely with the RIT regarding schedule expectations for completion of the Director's Report or Chief's Report.
12. Final review of the report will also include review of all supporting documents and project guidance as part of the decision quality assurance for the Chiefs Report / Directors Report package as required under ER 1105-2-100 including ATR, IEPR, ROD/FONSI and public comments to ensure that all comments are appropriately resolved and consistent with the review findings. The review team will pay particular attention to the IEPR comment resolution and the wording of the Agency's responses to IEPR. The RM will work with the review team, RIT, MSC, PCX, and PDT to resolve any concerns.
13. Agency responses to IEPR: As part of the final report submittal package, the district will provide draft Agency responses to IEPR comments. The RIT Planner is responsible for ensuring that the Agency responses are in the appropriate format, are aligned with the decision document, and are the appropriate technical level, length, and tone. The RM, working with the review team and the RIT, will review responses, coordinating with the district as needed. The final draft Agency Response will be part of the Chief's Report/final decision document package. The DCW (Director's Reports) or the Chief of Engineers (Chief's Reports) will approve and sign the Agency Response. The signed Agency Response will accompany the Chief's Report/final decision document package. For more information on the Agency Response document, see Appendix E of the Type I Independent External Peer Review – Standard Operating Procedures found on the following site:
<https://planning.erdcdren.mil/toolbox/current.cfm?Title=Peer%20Review&ThisPage=Peer&Side=No>
14. The RM will draft the initial proposed Chief's Report or Director's Report based on the templates, coordinating with the PDT as needed. Once drafted, the RM will provide the proposed Chief's Report or Director's Report to the full policy and legal compliance review team for their review, and based on their input will finalize the proposed Chief's Report and provide it to the RIT. This document, which will be included with the State

and Agency Review letters, will be completed at least 1 day prior to the State and Agency(S&A) Briefing.

15. The RM will attend the State and Agency briefing. The briefing may be led by the RM, the District, or the RIT, as determined by mutual agreement between those groups. The RM will be responsible for reporting to the decision maker, if not leading the brief, as to the status of the final policy and legal compliance review, including if there are any open issues still requiring resolution.
16. State & Agency review: If a study is leading to a Chief's Report, the RM is responsible for overseeing S&A review. The RM will coordinate with the RIT to determine which States, Tribes, and Federal agencies should review the proposed Chief's Report. The OWPR program analyst will prepare the letters. The letters will include a link to the draft final report on the district's website for access to additional information on the project. This process will be started during the final review period to ensure that S&A letters are ready for signature at the time of the S&A Briefing. The RM should coordinate with the OWPR program analyst to ensure that there is adequate time to prepare the letters.
17. Once the letters are created, the OWPR program analyst notifies the RM that the letters are completed. The letters will be saved on the OWPR shared drive. If the RM does not sit in HQUSACE, they will need to coordinate with the appropriate RIT to obtain the letters. The RM reviews the letters for accuracy, making any revisions necessary.
18. The RM is responsible for ensuring the completion of any additional actions needed, as determined by the OWPR Chief or HQ Chief of Planning and Policy, before the release of the proposed Chief's Report for S&A review (e.g., modifications needed to the feasibility report and draft ROD if applicable).
19. The RM, with the support of the policy and legal compliance review team, assesses any comments received during the 30-day State and Agency review and determine which, if any, require a response. The RM will coordinate with the RIT on any letters that require assistance from the district. The district is responsible for drafting an initial response. Letters responding to state governors will be signed by the HQUSACE Chief of Planning and Policy. All others will be signed by the Chief, OWPR. The RIT will forward the district's draft responses to the RM, who, with the support of the review team will assess the draft responses, making revisions as needed. The RM will provide the response letters to the appropriate person for signature (cc'ing the RIT). Once comments from the S&A review have been considered and resolved to the satisfaction of the person signing the response letter, the district can then submit the FEIS to EPA for publication of the Notice of Availability (NOA) in the Federal Register for a 30-day review. Language in the NOA will not request comments unless the ASA(CW) has given an exception to this policy.

20. The RM compiles review comments in the Documentation of Review Findings (DoRF) up to the final briefing of the Chief of Engineers in coordination with the vertical team as the supporting documents are back checked by the review team and issues resolved on the final package. See Enclosure 2. Assuming all policy concerns have been resolved prior to the start of S&A review, the DoRF should be completed, except for the S&A and FEIS review information (if applicable), prior to the end of S&A review to ensure no delay in processing the Chief's Report.
21. The RM, working with the RIT, review team, and PDT, edits and finalizes the Chief's report, incorporating any changes from the State and Agency and final NEPA reviews. The RM will provide copies of the Chief's Report, Documentation of Review Findings, FONSI or ROD, Report Summary, OMB slides, project placemat, and Agency responses to IEPR (if applicable) to members of the review team for a final review prior to the routing of the Chief's Report package by the appropriate RIT. Once completed, the DoRF and transmittal memo will be forwarded to the Chief, OWPR for approval and transmittal to the RIT.
22. The RM attends the briefing for the DCG-CEO and/or Director of Civil Works (DCW). The briefing is typically led by the District Commander and is considered a dry run for the Chief's Report briefing. The RIT schedules the meeting.
23. The Chief's Report briefing is scheduled by the Chief's office based on the P2 dates provided by the Chief, OWPR. The RM will usually attend the briefing along with the Chief, OWPR. Members of the policy and legal compliance review team may be asked to attend. The District Commander conducts the briefing. The Chief's Report briefing may be scheduled before the end of the 30-day review of the FEIS in the Federal Register if this review has not been completed.
24. The original signed Chief's report is sent back to the RIT who then coordinates with the Planning CoP to have an electronic copy of the Chief's Report posted on the Planning Toolbox. The RIT also provides copies of the Chief's Report to the Future Directions team who then forwards the Chief's Report to the Congressional Committees. The original signed Chief's Report is then forwarded to the Chief, OWPR.
25. Any comment letters received from the public during the review of the FEIS after the Chief's Report has been signed will be part of the Administrative Record. Copies of the letters and a summary of any substantive comments received regarding the FEIS and how they were addressed will be transmitted by the RIT to the appropriate decisionmaker for further consideration. The RM will review the comments received and coordinate any needed responses with the appropriate members of the review team.