

US Army Corps of Engineers

# How to Plan a Water Resources Project With the US Army Corps of Engineers



A Guide for Tribal & Alaska Native Village Governments 5th Edition 2023

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### **Tribal Nations Program**

The U.S. Army Corps of Engineers (USACE) has a variety of authorities that allow the agency to partner with Tribal Nations. Projects can range from ecosystem restoration to flood risk management to preservation of cultural resources.

USACE's Tribal Nations Program developed this booklet to assist federally-recognized Tribal governments with information on how to develop a water resources project. The authorities and cost-share considerations are listed under each authority beginning on Page 10.

In order to help streamline communication, each Corps District has a Tribal Liaison that can provide assistance and ensure that your Tribe is working with the right people. We honor your sovereignty and value your time. We are always available to meet with your Tribal leadership and discuss how our programs and authorities can meet your Tribe's particular needs.

We strive to honor our unique legal relationship with you and recognize that each Tribe possesses unique issues, decision processes, cultures, and beliefs. This booklet was written with this in mind—to help you get to know us better, and for us to serve you better now and in the future.

#### **Our Tribal Policy**

USACE's Tribal Policy is based on these six principles:

- Recognize Tribal Sovereignty
- Honor the Trust Responsibility
- Engage in Government-to-Government Relationships
- Engage in Pre-decisional Consultation
- Protect Natural and Cultural Resources
- Promote Economic Capacity Building and Growth

#### **Our Trust Responsibility**

At its broadest, the Trust Responsibility includes the mixture of legal duties, moral obligations, understandings, and expectancies that have arisen from the entire relationship between the federal government and the Tribes. In short, this fundamentally amounts to supporting and encouraging tribal self-government, self-

determination, and economic prosperity. At its narrowest, it requires faithful performance of tasks expressly set forth in federal treaties.



# Table of Contents

Bird's Eye View	3
Partnering Highlights	4
Programs At a Glance	8
Tribal Partnership Program	10
Tribal Partnership Program Ability to Pay Provision	12
Floodplain Management Services	15
Planning Assistance to States (& Tribes)	17
Continuing Authorities Program	18
In-Kind Contributions	20
Emergency Response Support	22
Other USACE Programs	23
How to Start a Project	24
USACE Planning Process	25
Project Considerations	26
Sample Letter	28
Authorities Versus Appropriations	30
Budget Cycle	32
Useful Links	33
USACE District Offices	34
Contact Information	36



## **Bird's Eye View**

USACE partners with many Tribes on water resources related projects. These partnerships have resulted in innovative collaborations to address long-standing concerns and future water resources challenges.

Briefly, this is what is required:

**Identify the issue.** This is *your* project. USACE knows that we need your knowledge and perspectives on local conditions, ecosystems, and terrain to develop projects that



support your community. We have much to learn from your oral histories, indigenous knowledge, and your collective expertise.

**Contact your local USACE District office.** The Tribal Liaison is a great place to start. You can find a list of contact information on page 36.



**Scope your project.** The District office can work with you to identify the appropriate authority and project expertise to develop the project. We will work together to identify the best solution for your community. Some projects may require a legal agreement to initiate. Others may require a cost share.



### **Partnering Highlights**

Unlike many other federal agencies, USACE is not a granting agency; USACE is a partnership agency. USACE works hand-in-hand with tribal nations throughout the country to investigate water resources and related land problems and opportunities and, if warranted, partner on projects of greater scope and/or complexity. These partnerships vary by the scope and scale of the project being developed. The development of a project can be a complex undertaking and requires a successful partnership and a contractual agreement between USACE and the Tribe. In contrast, as a technical services client, a Tribe's engagement with USACE may be limited in scope and duration.

USACE water resources activities are authorized by Congress, funded by the Federal government and Tribes, and typically constructed by private contractors supervised

by USACE. We value are Tribal partnerships and have highlighted some recent projects on the following pages.





### Clear Creek Restoration Partnership with the Mechoopda Tribe of Chico Rancheria

The purpose of the project is to restore ecological function, structure, and health to Clear Creek, part of the Mechoopda Tribe's ancestral lands. Human alteration of the watershed has resulted in significant degradation of aquatic ecosystems over time. The project area is located about 15 miles southeast of Chico, California. The restoration plan includes establishing 42 acres of riparian habitat and valley oak woodland habitat and bank shaping to increase floodplain connectivity. This includes plant species important to medicinal and ceremonial uses and will restore the culturally significant landscape. The project entered into design in 2023.





### Buffalo Slough Island Ecosystem Restoration

#### **Prairie Island Indian Community**

Construction of a navigation channel in the Mississippi River affected cultural resource sites, including lands belonging to the Prairie Island Indian Community (PIIC). In 2019, the St. Paul District and PIIC started a project to identify ecosystem restoration opportunities that could be implemented to restore and enhance the degraded habitat on Buffalo Slough Island. PIIC identified significant resources and a need for protection in and around Sturgeon Lake, particularly Buffalo Slough Island. The goal was to increase the presence of a healthy floodplain forest providing nesting trees, particularly mature cottonwoods for bald eagles, emergent vegetation for food and medicine for the PIIC, fisheries for recreation and cultural sustenance, and a healthy waterfowl migratory corridor. Construction completed in 2023. Construction included a rock bullnose at the north end of the island to prevent erosion and rock vanes with an

access berm along the eastern side of the island to minimize bank erosion and serve as nesting and shelter habitat for birds, reptiles, and mammals.





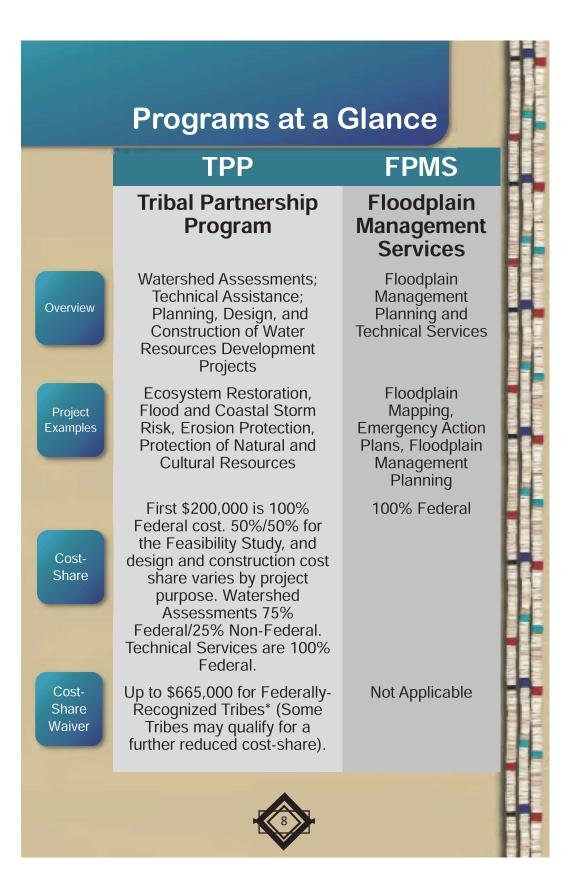


Lower Brule Sioux Tribe



USACE partnered with the Lower Brule Sioux Tribe to address erosion along the shore, which was threatening the Tribe's wastewater lagoons, restore nationally and culturally significant degraded environmental habitat, and re-establish cultural and recreational connectivity to the river and native plants culturally important to the Tribe. The first phase of the project consisted of building a 5,000 ft breakwater structure with integrated water exchange structures approximately 200-300 feet from the shoreline. Phase two of the project incorporated a boat ramp and some ancillary recreation features to provide access and connection to the river. Construction of the project was completed 30JUN23 and marked the first project in the nation to be constructed under the Tribal Partnership Program.





### PAS

#### Planning Assistance to States (&Tribes)

Comprehensive Water Resources Planning and Technical Services

Watershed Assessments, Drought Resiliency Plans

50%/50% (A costshare may not be required for Tribes)

Not Applicable

## CAP

#### Continuing Authorities Program

Planning, Design, and Construction of Water Resources Projects of Limited Scope and Complexity

Ecosystem Restoration, Flood Risk Management, Coastal Storm Risk, Erosion Protection, Navigation

First \$100K is 100% Federal; Typically 50%/50% for the Feasibility Study with some variation; Design/Construction varies according to CAP section (rarely less than 65% Federal).

Up to \$665,000 for Federally-Recognized Tribes\*

\*The cost share waiver will be increased each year for inflation.

Your Local USACE Office can help you identify the best authority or program for your project.

### **Tribal Partnership Program**

The Tribal Partnership Program (TPP) allows USACE to partner with Tribal Nations to carry out water-related planning activities, or activities relating to the study, design, and construction of water resources development projects, that will substantially benefit Indian Tribes; and are located primarily within Indian country or in proximity to Alaska Native villages.

#### What type of projects are eligible?

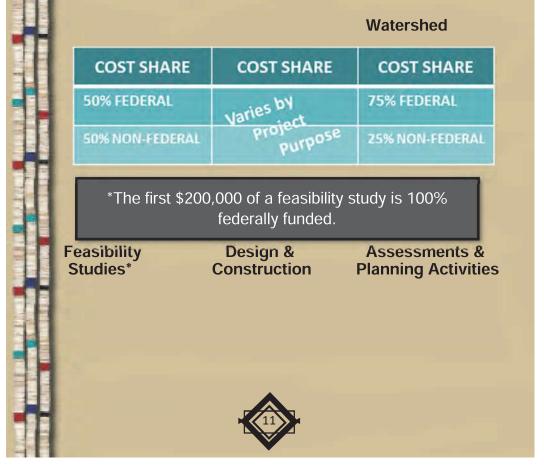
- Flood, hurricane, and storm damage reduction including erosion
- Environmental restoration and protection
- Preservation of cultural and natural resources
- Watershed Assessments and Planning Activities
- Planning and technical assistance
- Other projects as the Assistant Secretary for the Army (Civil Works), in cooperation with Indian Tribes and the heads of other Federal agencies, determines to be appropriate.





#### **Cost Share Requirements**

The cost-share varies with the type of project being completed under TPP. Currently the cost share waiver of \$665k applies to feasibility studies, construction projects and watershed assessments. This amount will be increased every year to account for inflation. In addition, the first \$200,000 of a feasibility study for a project leading to construction is 100% federally-funded. For more information and current cost-share waiver amounts, visit <u>https://planning.erdc.dren.mil/</u> and search for "Tribal Cost-share."



### Tribal Partnership Program Ability to Pay Provision

Some Tribal Nations may be eligible for an additional reduction in their cost-share per the ability to pay provision.

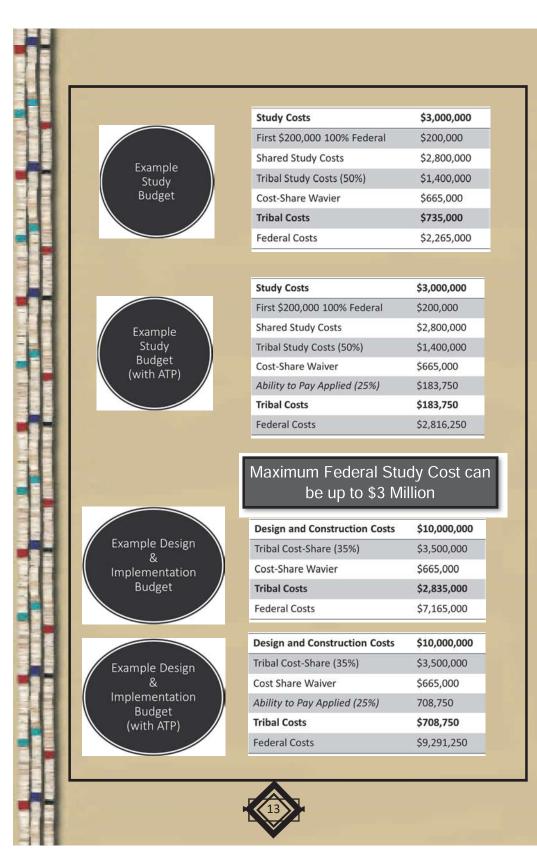
If a Tribe has a per capita income less than the per capita income of two-thirds of the counties in the U.S., the non-federal cost share will be reduced. Current data from the U.S. Census Bureau's estimates for your Tribe's Tribal Census Tracts, Tribal Block Groups, or Alaska Native Village Statistical Areas are expected to be used when available. Your Tribal Liaison can help you with this data and comparison.

The chart on the opposite page provides an example of the reduction of the cost share under the ability to pay provision for a study budget, and study with design and construction costs.

For more information and current per capita limits, visit <u>https://planning.erdc.dren.mil/</u> and search for "Tribal Ability to Pay."







#### Located Primarily Within "Indian Country"

TPP projects have to be located primarily within Indian Country, as defined in 18 U.S.C. section 1151, and including lands that are within the jurisdictional area of an Oklahoma Indian Tribe, and are recognized by the Secretary of the Interior as eligible for trust land status under 25 C.F.R. pt. 151; or in proximity to Alaska Native Villages.

18 U.S.C.§ 1151, the 'Indian Country" Statute says:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation,

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and

(c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.





# Floodplain Management Services

Through the Floodplain Management Services (FPMS) program, USACE provides information on flood hazards to guide development of the floodplains and flood-prone areas of the United States. The program's objective is to foster understanding of the options for dealing with flood hazards and promote prudent use and management of floodplains and flood-prone areas. The FPMS program provides a full range of technical services and planning guidance that is needed to support effective floodplain and flood risk management. **FPMS is 100% Federally-funded.** A partner can voluntarily choose to contribute funds to expand the scope of services provided.

Under the FPMS program, USACE is authorized to compile and disseminate information on floods and flood damages, including identifying areas subject to inundation by floods of various magnitudes and frequencies, providing general criteria for guidance for use of floodplain areas to federal and non-federal interests and agencies, and advising other federal agencies and local interests on using the criteria when planning flood hazard mitigation.

#### **Example FPMS Activities and Products**

- Floodplain mapping
  - Flood risk education & outreach
- Emergency Action Planning
- Floodplain Management Plan assistance
- Evacuation preparation & planning
- Stormwater management planning
- Tabletop Exercises
- Educational workshops



### Planning Assistance to States

Planning Assistance to States (PAS) can provide technical assistance or assist in the preparation of comprehensive plans for the development, utilization, and conservation of water and related land resources. Tribes qualify as partners under this program.



Typical studies are only planning level of detail; detailed design and project construction are not included in this program. The program can encompass many types of studies dealing with water resources issues.

#### **PAS Studies Can Include**

•	Floodplain delineation	•	Flood hazard evaluation	•	Flood risk reduction
•	Comprehensive floodplain management	•	Storm water management	•	Stream and wetland assessments
•	Coastal assessments	•	Watershed planning	٠	Water supply
•	Water quality	•	Environmental restoration	•	Fish & wildlife assessments



**Comprehensive Planning and Technical Assistance** There are two types of efforts available through the PAS program as described below. PAS studies are typically costshared 50/50. For Federally Recognized Tribal communities and Indian country as defined in 18 U.S.C. 1151 or in proximity of an Alaska Native Village, **cost-share may not be required.** 

#### **Comprehensive Plans**

Comprehensive Plans include planning for the development, utilization, and conservation of the water and related resources of drainage basins, watersheds, or ecosystems. PAS studies cannot include detailed design nor project construction, and implementation of the plan is the responsibility of the Tribe.

#### **Technical Assistance**

Technical Assistance provided through the PAS program includes support of planning efforts related to the management of water resources, including the provision and integration of hydrologic, economic, or environmental data and analysis in support of the Tribe's water resources management and related land resources development plans identified in the state water plan or other water resources management related planning documents. This technical assistance may not include the preparation of sitespecific designs or construction.



### Continuing Authorities Program

Continuing Authorities Program (CAP) is a group of authorities under which USACE can plan, design, and implement certain types of water resources projects. The purpose of the CAP is to plan and implement projects of limited size, cost, scope and complexity. The table to the right lists the CAP authorities and their project purposes. Typically, Tribes may prefer to use the Tribal Partnership Program for these project purposes. Working with your local USACE office can help you pick the best authority for your project.

All projects in this program include a feasibility phase and an implementation phase. The feasibility phase is initially Federally funded up to \$100,000. Currently a cost-share waiver of \$665,000 applies to CAP projects for Federallyrecognized Tribes. This amount will be increased every year to account for inflation. Any remaining feasibility phase costs for seven of the nine CAP Sections are shared 50/50 with the non-Federal sponsor after executing a feasibility cost sharing agreement (FCSA). The remaining two CAP Sections (204 and 111) are cost shared differently.



The final design, preparation of contract plans and specifications, permitting, real estate acquisition, project contracting and construction, and any other activities required to construct or implement the approved project are completed during the implementation phase. USACE and the Tribe sign a project partnership agreement (PPA) near the beginning of the implementation phase. Costs beyond the feasibility phase are shared as specified in the authorizing legislation for that section.

Authority	Project Purpose
Section 14	Streambank and shoreline erosion protection of public works and non-profit public services
Section 103	Beach erosion and hurricane and storm damage reduction
Section 107	Navigation improvements
Section 111	Shore damage prevention or mitigation caused by Federal navigation projects
Section 204	Beneficial uses of dredged material
Section 205	Flood control
Section 206	Aquatic ecosystem restoration
Section 208	Removal of obstructions, clearing channels for flood control
Section 1135	Project modifications for improvement of the environment



### **In-Kind Contributions**

Depending on the project and authority, a cost-share may be required for your project. Often you can perform inkind contributions in place of a cash cost-share. Crediting can be for the study, design, or construction of a project. The types of in-kind contributions eligible for credit include planning activities (including data collection and other services needed for a study); design related to construction; and construction (including management; mitigation; and construction materials and services).

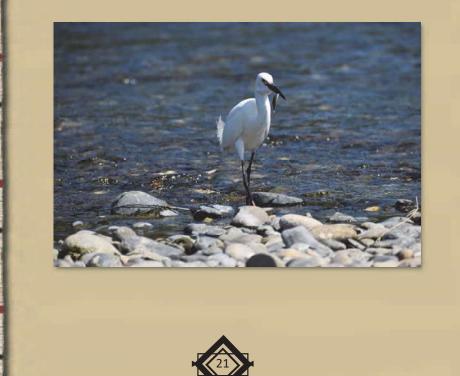
The creditable amount is the lesser of the costs incurred by the Tribe to obtain such materials or services; the market value of such materials or services as of the date that the non-Federal sponsor provides such materials or services for use in the study or project; or the Government's estimate of the cost for such work if it had been accomplished by the Government.

Any in-kind contributions performed or paid for by using funds provided by another federal agency may be eligible for credit under the Tribal Partnership Program if approved by the other federal agency and USACE.



It is important to remember that in-kind contributions must be:

- For a task that is integral to the success of the project.
- Approved by all partners in the Project Management Plan (PMP).
- Conducted after the project was initiated and the PMP was signed.
- Documented as it is conducted and submitted to the USACE project manager. Work with the project manager to determine the appropriate format and timing of submitting in-kind documentation.



### **Emergency Response Support**

In cases when disaster exceeds Tribe, state or community capabilities, the Corps can provide additional assistance at the Tribal Nation's request. In situations with an immediate threat to life and property, Tribes should work with state emergency response agencies who can contact the Corps. Two laws govern our role in emergency operations: PL 84-99 (Flood Control and Coastal Emergency Act) and the Stafford Act (Stafford Disaster Relief and Emergency Assistance Act of 1974). FEMA is the lead Federal agency under the Stafford Act.

Tribes may come directly to USACE if the Tribe has declared a disaster. A written request from the Tribe to the USACE District Commander is required. Temporary protection works are 100% Federal; more permanent works are cost shared 65% Federal /35% Non-federal.



The Los Angeles District's emergency management team completes the Hopi emergency flood mitigation project Dec 23, in Hopi, Arizona.



## **Other USACE Programs**

#### Native American Lands Environmental Mitigation Program

NALEMP is a Department of Defense program managed by the Corps using cooperative agreements with Federally recognized Tribes to remediate contamination caused by the military when lands were appropriated for its use. Tribes are commonly funded to perform the clean-up through a cooperative agreement with DoD.

#### International & Interagency Support (IIS)

A 100% reimbursable program that can use funds from other Federal agencies, such as Indian Health Services or Housing and Urban Development, to construct projects in Indian Country.

#### **Regulatory Program**

USACE regulates various activities affecting certain water resources under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, including any work that modifies a navigable water of the United States, and placing dredged or fill material into any waters of the United States, including wetlands. Such activities require USACE permits even on private and Trust lands.



## How to Start a Project



Identify Your Water Resources Challenge

Identify your water resources needs and interests.



Get in Contact

Contact your local USACE office to discuss your problem and discuss possible USACE authorities that can support addressing your needs. District office contacts are listed on page 36.



Schedule a Site Visit

Ideally, the USACE office staff will conduct a site visit to better understand the problem and determine how to scope a potential project.



Scope the Project

The USACE office staff will work to determine the most appropriate authority for your project and any legal agreements or documents needed to initiate the project. The authority and complexity of the project scope will determine how soon a project\_could be initiated.



## **USACE** Planning Process

Planning is about PROVIDING WATER RESOURCE SOLUTIONS THROUGH solving problems and making decisions under uncertainty. With today's complex challenges and limited resources, we must be more efficient and effective. While the planning process can take years to conduct, it is integral to finding the best solutions in partnership for your water resources problem. The funding and time commitment of both the tribes' and USACE vary based on the authority and complexity of the study but are generally completed within 3 years. Smaller studies can be completed more quickly.

Innovative solutions, systems context and the application of the full range of USACE programs and authorities are integral to the planning process. The USACE planning process is conceptually six main steps:



Inventorying & forecasting conditions Formulating alternative plans Evaluating alternative plans

Comparing alternative plans

Selecting a plan

Our partners are integral to the planning process. It is your project to benefit your community. We collaborate together to understand the water resources needs and the interests of the community.



### **Project Considerations**



#### **Identify your Problem:**

What is the nature of the problem (water quality/quantity, water supply, flooding, erosion, infrastructure, ecosystem degradation? What is the location, size of the lands involved or population, etc.?



### Identify any Possible Constraints: Real estate, easements, cultural sensitivity, etc.



#### Identify Available Tribal Staff:

Who will support the project? Administrative, management, technical, contractors, others?



### Identify Tribal Governmental processes: Leadership and Tribal Council involvement,

needed Tribal ordinances or resolutions, etc.

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#### **Identify Potential Partners:**

Other federal, state, non-governmental organizations, Tribal Nations, or Tribal or local agencies / governments.

#### Identify Potential Funding Sources:

Federal or state programs that could provide support to your Tribe's in-kind contributions or otherwise offset cost share obligations.



### **Request Letter**

Work with your local district office to determine the best authority for your project. USACE will need an official request letter to initiate a project. The local district office can provide assistance with developing a letter. Below are some things to keep in mind when drafting a letter.



#### **Tribal Letterhead**

Contact information is essential.

#### Addressee

The letter should be addressed to the District Commander, or the appropriate program manager or tribal liaison. Work with your district office to determine the correct address.

#### Contents

The letter should reference the problem and need for a project. Provide as much information as possible, including maps, drawings, or photos if available.

### Authority

The letter should be signed by the proper Tribal authority.



## Authorities Versus Appropriations

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1	

Authorization refers to the requirement that Congress 'authorize' or assign responsibility for a particular area of Federal interest to the USACE.

A project or program is authorized if Congress decides it falls under our jurisdiction, whether it is a very large and complex program, like the Florida Everglades, or a small project like armoring a stream in Kansas to prevent erosion.

Authorizations for USACE projects and programs normally appear in a series of recurring laws known as Water Resources Development Acts (WRDA). Generally, WRDA bills are developed every other year by Congress.

These Acts are developed by the House Committee on Transportation and Infrastructure or the Senate Committee on Environment and Public Works.

An appropriation assigns funding to the Corps to carry out the activities Congress has authorized.







An appropriation assigns funding to the Corps to carry out the activities Congress has authorized.

Appropriations are made annually through the Energy and Water Appropriations Bill through the House and Senate Subcommittees on Energy and Water within the Appropriations Committees of both chambers to fund all Corps Civil Works

programs.

The amount of funding allocated to a specific program is completely at the discretion of Congress.



It is important to remember that both of these congressional activities are distinct, and each is carried out by different congressional committees with different schedules.

In some cases, authorized projects may lack the appropriations necessary to implement your project.



### **Budget Cycle**

USACE gets funding through the Federal budget cycle. This cycle spans a 20 month period and overlaps with one execution cycle. What this means is that the budget under

development in any given year will not be executed until two fiscal years later. USACE juggles three different budgets in one year. Understanding this budget sequence is critical to the successful implementation of your project for a couple of reasons.

First, it may be rare for funds to be immediately available to start your project. Funding for

specific projects will typically not be available for two years from the time you approach USACE for assistance.

Second, some USACE programs require the sharing of project costs by you, the project sponsor. Project execution is facilitated by coordinating the timing of your community's budget process with that of the Federal government.

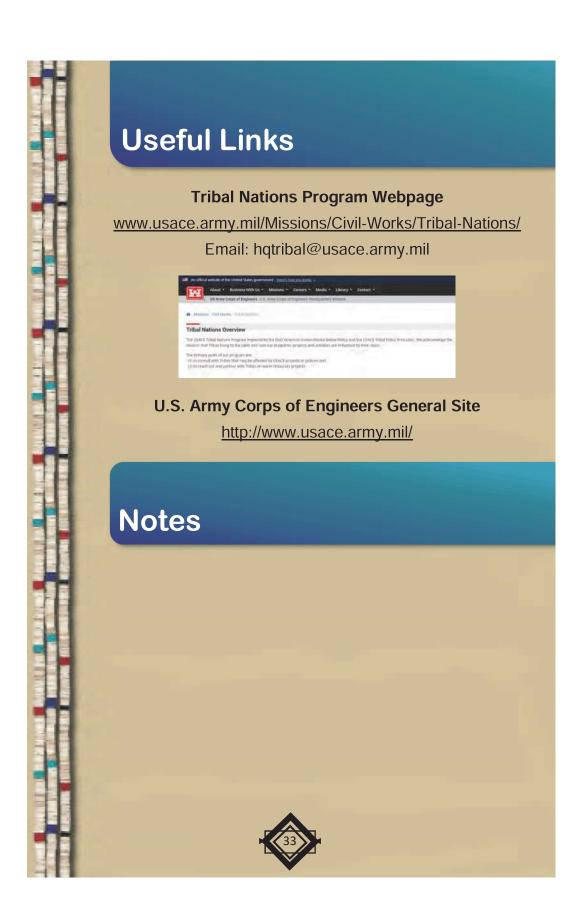




Defend Program

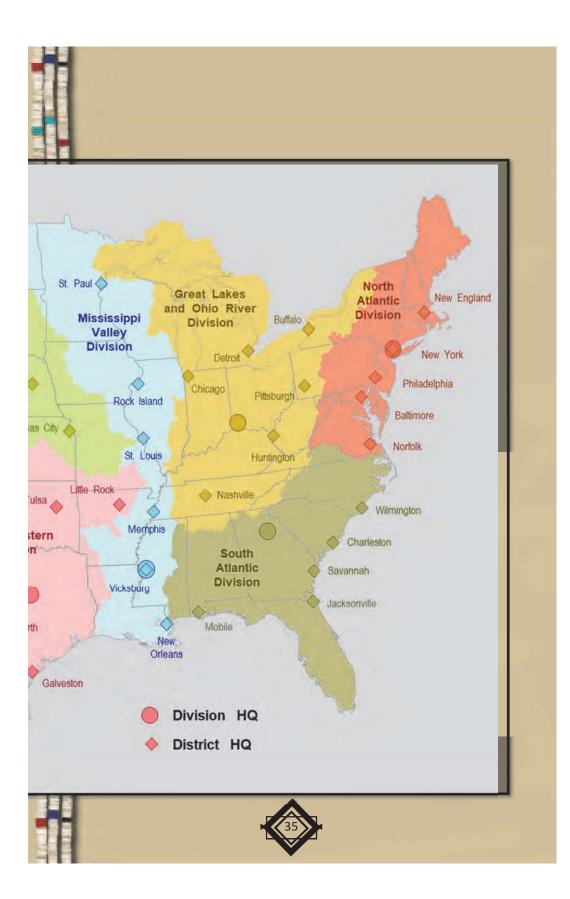
Year 2

Year 3 Execute Program



# **USACE** District Offices





# **Contact Information**

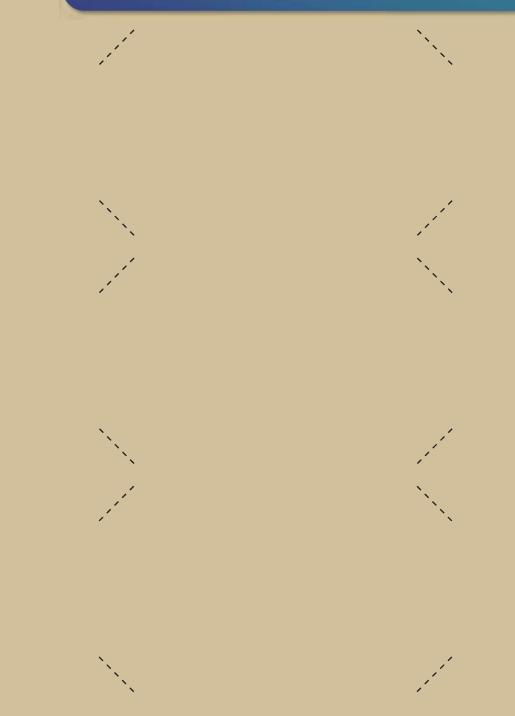
Great Lakes and Ohio River	
Division	513-684-3097
Buffalo District	800-833-6390
Chicago District	312-846-5303
Detroit District	313-226-3510
Huntington District	304-399-5211
Louisville District	502-315-6107
Nashville District	615-736-7161
Pittsburgh District	412-395-7100
Mississippi River Division	601-634-5818
St Paul District	651-290-5302
Memphis District	901-544-3226
New Orleans District	504-862-2077
Rock Island District	309-794-4200
St Louis District	314-331-8000
Vicksburg District	601-631-5000
North Atlantic Division	347-370-4548
Baltimore District	410-962-2809
New England District	978-318-8797
New York District	917-790-8007
Norfolk District	757-201-7606
Philadelphia District	215-656-6515
Northwestern Division	503-808-3800
Kansas City District	816-389-3205
Omaha District	402-995-2842
Portland District	503-808-4508
Seattle District	206-764-3625
Walla Walla District	509-527-7700

Pacific Ocean Division	(808) 835-4700
Alaska District	907-753-5582
Honolulu District	808-835-4003
South Atlantic Division	404-562-5011
Charleston District	843-329-8000
Jacksonville District	904-232-2568
Mobile District	251-690-2512
Savannah District	912-652-5279
Wilmington District	910-251-4625
South Pacific Division	415-503-6503
Albuquerque District	505.342.3671
Los Angeles District	213-452-3966
Sacramento District	916-557-7490
San Francisco District	415-503-6756
Southwestern Division	469-487-7007
Fort Worth District	817-886-1306
Galveston District	409-766-3004
Little Rock District	501-324-5551
Tulsa District	918-669-7642





# **Business Cards**



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