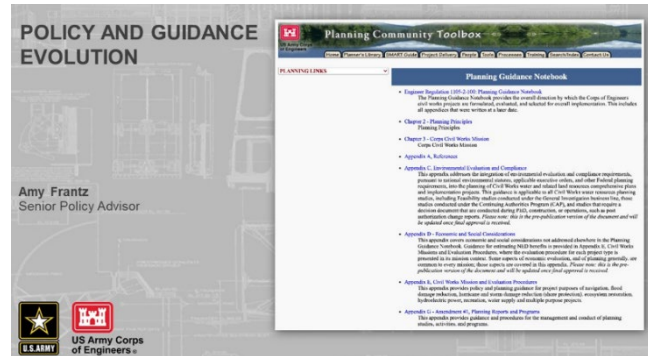


This webinar provided an overview of the evolution of USACE policy on formulation and evaluation of water resource projects and the Planning Guidance Notebook (PGN, [Engineer Regulation 1105-2-100](#)). Presenter Amy Frantz (HQUSACE Senior Policy Advisor) discussed current Planning policy along with insights into how policy is developed, updated, and maintained. This webinar was presented to the USACE Planning Community in October 2022 and again in May 2023 with minor updates.



This summary of the Question / Answer session of the webinar is not a transcription; questions and responses have been edited and reordered for clarity. This Question/Answer summary covers both webinars.

Planning Policy Changes

The 3-year/\$3 million federal feasibility study requirement (“3x3”) was established in law in 2014; since then, additional considerations such as climate change, and environmental justice have been added to federal studies, and inflation has eroded the “purchasing power” of \$3M significantly. Has there been any push to request a revision of the funding limit from Congress? (10/2022, updated 4/2023)

While increasing the funding cap could help resolve the need to go through the policy exception process for a “typical” study that would meet the 3x3 requirements were it not for inflation, there is no Administration plan to request a funding limit increase from Congress. However, the majority of study teams are able to work successfully within the constraints of 3x3, with over 52% of all studies meeting these requirements since the 3x3 policy was put in place.

Would HQUSACE and the Office of Counsel consider any changes to when the three-year feasibility schedule officially ends (i.e., ending with the Division Engineer Notice rather than the Chief’s Report)? (10/2022)

The 3x3 limits of WRRDA 2014 Section 1002 apply to feasibility studies, not specifically the feasibility report. The implementation guidance for WRRDA 2014, Section 1001, defines the end of the feasibility study process as the signing of the decision document (e.g., Chief’s Report or Director’s Report). The beginning and end of the feasibility study – in this case starting with the signed Feasibility Cost Sharing Agreement and ending with the signed Chief’s Report – is based in law (33 USC 2282).

In the revisions to the Planning Guidance Notebook (PGN, or ER 1105-2-100) and its release as an Engineer Circular, is HQUSACE considering any changes that would affect the requirements for deliverables and products associated with specifically authorized studies? For example, will there be any newly required report appendices or consultations that will affect time and budget requirements for study teams? (4/2023)

There are no new requirements being added to the PGN that are not already in law or existing USACE policy. The PGN is being updated to incorporate new laws, policies, Water Resources Development Act (WRDA) provisions and implementation memos, etc. since the PGN was last revised in 2000.

How does “Ability to Pay” play into cost share requirements? What is the status of the Ability to Pay update? (10/2022)

Ability to Pay has historically been the mechanism through which USACE has been able to engage with economically disadvantaged communities after the cost-share requirements of WRDA 1986 were put in place. If a community meets certain requirements under the Ability to Pay provision, the community may be eligible for a reduction in the non-federal interest cost share. This reduced cost share is only officially applied to Construction because a federal rulemaking updating the Code of Federal Regulations around Ability to Pay (33 CFR Part 241, Flood Control Cost-Sharing Requirements Under the Ability to Pay Provision) was never issued for feasibility studies or design. However, the Ability-to-Pay mechanism can be used in Continuing Authorities Program and flood risk management projects.

Tribal Ability to Pay and Cost Share Waivers are addressed in annual [Economic Guidance Memoranda, available on the Planning Community Toolbox](#). Ability to Pay is being reviewed by the Assistant Secretary of the Army for Civil Works (ASA(CW)) as a potential agency priority. More specific questions on Ability to Pay should be addressed by the study team’s economist(s).

How does USACE determine whether a community is economically disadvantaged, and if a community can benefit from the activities / provisions in WRDA 2020 aimed at economically disadvantaged communities? (4/2023)

The definition to be used is provided by [Implementation Guidance for Section 160 of the Water Resources Development Act of 2020, Definition of Economically Disadvantaged Community](#). To be designated an Economically Disadvantaged Community, a census tract must meet two of the eleven criteria specified in the Council on Environmental Quality (CEQ) Climate and Economic Justice Screening Tool, <https://screeningtool.geoplatform.gov/en/>. A local jurisdiction may be considered Economically Disadvantaged if any of its census districts meet the definition in the implementation guidance.

Is there any effort to collaborate and refine USACE tools, models, or data using the data collected from new and evolving partner federal agency tools and data? Will policy evolve further, especially related to cost sharing, due to newly available technology? (10/2022)

The agency’s goal is to use the best available science to inform decisions. USACE, including the Engineer Research & Development Center and its other Centers and Labs, is continuing to develop and apply new technologies, models, and data sources. To the extent that new data or tools impact study delivery cost, whether increasing or decreasing, that will be part of the vertical team alignment on study scope, schedule, and budget.

What implementation guidance will the ASA (CW) issue for WRDA 2022, and when will it be published? (4/2023)

The ASA’s implementation guidance for WRDA 2022 will include guidance on ten topics, including federal interest determinations, Construction, use of other federal funds, research and development contracts, and managed aquifer recharge studies. The guidance should begin to be published in May 2023.

Planning Process Changes

Are there any ongoing discussions with the ASA(CW)'s Office regarding the potential for USACE to fully cost share a "comprehensive benefits plan" versus having to pay the difference between the selected plan and the National Economic Development (NED) plan (even if it is a better comprehensive investment), especially when addressing life safety for socially vulnerable communities? (10/2022)

Federal law requires non-federal sponsors to cost share the feasibility study, as well as Construction of the project and to conduct all operations and maintenance after Construction. These long-term costs should be considered when thinking purposefully about selecting plans. When a community may not be able to directly provide their cost share, project partners may be able to secure funding through the state, federal grant programs, or other entities.

Is HQUSACE considering any changes to the USACE vertical team Civil Works review process? (10/2022)

No, HQUSACE is not considering any changes to the USACE vertical team Civil Works review process at this time.

How has the number of studies performed by USACE each year changed over time? (4/2023)

There are more studies conducted today than in previous decades; however, many of the major comprehensive studies done in the 1940s-60s are foundational to the feasibility studies conducted today. The continuous funding stream enabled by 3x3, and the agency and administration's commitment to seeing feasibility studies through to completion, has enabled USACE to conduct studies more quickly and efficiently.

Document Changes

What are the differences between the 2013/2014 Principles, Requirements and Guidelines for Water and Land Related Resources Implementation Studies (or PR&G), agency specific procedures (ASPs), and the PGN (ER 1105-2-100)? (10/2022)

The PR&G are intended to provide a common framework for analyzing a diverse range of water and land resources projects, programs, activities, and related actions involving Federal investment as identified by the agencies in the context of their missions and authorities – including by USACE – and supersede the 1983 Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (or P&G).

The PR&G are Administration policies applicable to all federal land and water resource agencies.

"Agency Specific Procedures" (ASPs) are developed by each federal agency as implementation guidance for the PR&G. The PGN is USACE's implementation guidance (ASPs) for the 1983 P&G. However, until FY20, Congress annually prohibited USACE from spending any of its appropriations to develop ASPs for the newer PR&G.

The ASA(CW) is intending to go through a federal rulemaking process to develop – and get public input on – the ASPs to implement the 2013/2014 PR&G. Once that rulemaking is completed, those rules will be incorporated into USACE Planning guidance as an Engineer Regulation.

Policy and Guidance Evolution
Q&A Session

In the meantime, though, the past 22 years of legislative and policy changes are being used to update the PGN. The updated PGN will be published as an Engineer Circular, rather than as an Engineer Regulation, so that it can be more easily updated to incorporate the final ASPs.

The 1990 version of the PGN included more descriptive evaluation procedures than the 2000 version of the PGN. Will the updated PGN revert to a more descriptive style? (10/2022)

In the 2000 update to the PGN, evaluation procedures were moved to appendices (e.g., Appendix E, Civil Works Mission and Evaluation procedures). The goal of the current PGN update is to incorporate new and updated policy, as well as update the content of the PGN to reflect current publications guidance. Publication guidance directs Engineer Regulations (and Circulars) to be durable policy documents, while procedures, processes, etc. should be published as Engineer Pamphlets.

For this reason, even more of the procedures which had remained in the main body of the PGN are being incorporated within the existing PGN appendices, and each of those appendices is being converted to one or more Engineer Pamphlets. Conversely, policy statements or direction in Appendix E are being moved into the main body of the PGN. This allows readers to find information more easily as it is in a centralized location (i.e., the chapter on Coastal Storm Risk Management has all of the relevant policy within the chapter). Readers interested in how to conduct the evaluation can review the related EP for specific details on procedures. Additionally, separating business line procedures out into separate Engineer Pamphlets will allow updates and revisions to the document to be made more easily.