

## Current Events in the Continuing Authorities Program (CAP)

11 July 2024

### Q&A Summary

*This webinar provided several updates related to the Continuing Authorities Program (CAP). Presented by Amy Babey (Continuing Authorities Program and Tribal Partnership Program National Program Manager at HQUSACE), this webinar discussed current CAP authority delegations which directly affect Planning and Programs components of CAP feasibility studies, the status of Section 165(a) of the WRDA 2020 pilot program, the program's financial state of affairs, and other innovative concepts related to CAP.*

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

For additional information and resources:

- [Planning Community Toolbox CAP page](#)
- [Request for Delegation of Authority - Approval Levels for Section 14, 103, 107, 204, 205, 206, 208, and 1135 Decision Documents; Locally Preferred Plan; and Costs in Excess of Federal Project Limit](#) (Assistant Secretary of the Army, Civil Works, memorandum)
- [Delegation of Authority - Continuing Authorities Program \(CAP\) Approval Level for Section 14, Section 103, Section 107, Section 204, Section 205, Section 206, Section 208, and Section 1135 Decision Documents](#) (USACE Chief of Engineers memorandum)
- [Delegation of Authority - Continuing Authorities Program \(CAP\) Approval Level for Locally Preferred Plans](#) (USACE Chief of Engineers memorandum)

### Delegated Authorities

Does **[“Delegation of Authority - Continuing Authorities Program \(CAP\) Approval Level for Locally Preferred Plans”](#)** from June 2024 implicitly rescind **[“Continuing Authorities Program \(CAP\) - Approval Level for Locally Preferred Plans”](#)** from August 2020 and the MVD Memo from April 2009 that delegates Project Partnership Agreement (PPA) approval authority to the District Commander?

The Chief of Engineers' June 2024 memorandum regarding the approval level for locally preferred plans rescinds and replaces the August 2020 memorandum. There is no rescission statement tied to the MVD Memo since it is an internal MSC memo; it will be up to the MVD commander to rescind or update the memorandum.

### CAP Funding

#### **When do CAP funds get released to the districts?**

At the beginning of each fiscal year, Amy Babey prepares an allocation plan based on expressed district capabilities and whether districts have met their milestones. If a district expresses their capability and the project is in the approved allocation plans (showing the district is receiving CAP funds), they need to request the funding from their MSC CAP program manager to receive funds. If a district needs something above what's identified in the allocation plan, they will have to work through their MSC CAP manager, and if available, additional funds will be allocated.



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### **Is it required to provide proof of receipt for sponsor funds prior to receiving federal funds?**

On a regular CAP project, no, since the first \$100,000 is already federally funded. Once a study team gets to an executed Feasibility Cost Sharing Agreement (FCSA), then yes, they will need the non-federal funds because the team must keep the cost share balance required by the feasibility cost share agreement.

### **Is the \$10M per project federal limit expected to increase soon?**

Congress may increase the federal per project limit up to \$15M for most CAP sections. But the current per project limit for most CAP authorities is \$10M.

### **If there is an increase to the per project limit, would it apply to current projects or only to new starts?**

It will apply to projects that do not have a PPA signed. So, if a PPA is signed, the per project limit cannot be changed.

## **CAP Related Processes**

### **Do PCXs need to approve review plans for CAP?**

The MSC will establish an appropriate review procedure for CAP projects, including whether the MSC or the appropriate PCX will be the review management organization and approve the review plan. See [EP 1105-2-58](#).

### **What is the cause of the backlog with the CAP federal interest determinations (FIDs)?**

There are two factors. The initial factor is that funding used to require Congressional approval for all CAP new starts, including a FID. This process has since changed and has become faster and more intuitive.

The other factor is simply funding. USACE is directed by Congress to allocate 80% of allocated funds to the design implementation phase and 20% to feasibility. Of all of those funds that are allocated, it is prioritized by projects that have a PPA, then projects that have an FCSA, then projects that completed feasibility and are going into the Design and Implementation phase, and finally new start studies. The additional inclusion of earmarks, directed funding from the Bipartisan Infrastructure Law, etc. further complicate the allocation of funding for CAP projects.

### **Is the “80% of funds to implementation and 20% to feasibility” a rule of thumb?**

This allocation is directed from Congress. While not exact, it is the goal Amy Babey follows when deciding how to allocate CAP funds.

### **Who is heading the development of the AI pilot to complete CAP federal interest determinations?**

The group working on this effort includes Headquarters Planning, the Headquarters Delivery and Innovation team, and contractors for specific technical expertise.