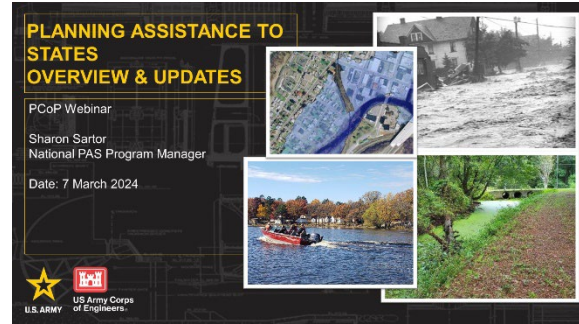


Planning Assistance to States: Overview and Updates  
7 March 2024  
Q&A Summary

*This webinar provided an overview of the [Planning Assistance to States \(PAS\) program](#), along with recent program updates for the cost-share waiver provided for by [Section 8119 of WRDA 2022](#) for economically disadvantaged communities. Sharon Sartor (Acting National PAS Program Manager) presented background information about the PAS program along with details about the approval process for the Section 8119 waiver.*



*For additional information and resources:*

- [Planning Community Toolbox – Partnering with the Corps Page](#) (see PAS-specific section)
- [Planning Community Toolbox – Public Outreach & Engagement Page](#)
- [PAS Project Partnership Agreements Templates](#)
- [Climate and Economic Justice Screening Tool \(CEJST\)](#)

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

### **PAS Program Basics & Requirements**

#### **Are PAS requests accepted on a rolling basis, or is there an annual deadline?**

Requests are accepted on a rolling basis throughout the year.

#### **Does receiving a Technical Assistance PAS project impact an applicant’s eligibility for a Comprehensive Plan PAS project later on (or vice versa)? Is there a firm distinction between the two types of assistance?**

A Technical Assistance PAS effort does not preclude the partner from requesting additional assistance in the future for a Comprehensive Plan, or vice versa. For example, there may be instances where a future Technical Assistance effort may be identified in the development of a Comprehensive Plan.

A Comprehensive Plan is described within the statute as cooperation with any State, group of States, non-Federal interest working with a State or group of States, local government, or regional coalition of governmental entities in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins, watersheds, or ecosystems located within the boundaries of such State, interest, local government, or entity, including plans to comprehensively address water resources challenges.

Technical Assistance is described within the statute as including provision and integration of hydrologic, economic, and environmental data analyses.

MSC PAS Program Managers have valuable experience and can serve as a resource to planners with questions about the different assistance types. Another resource is the PAS Microsoft Teams channel, where PAS teams can learn from one another.

**Previously, Districts had been required to show a potential PAS project’s direct tie to the relevant state water resources plan if the project sponsor was not the State. Does this requirement apply to USACE partnerships with local municipalities, Tribes, and/or non-profit entities?**

The definition of “State” for the purposes of PAS includes Tribes and territories. For any USACE partnership, the project should address water resource challenges such as those identified in or in support of a state water plan OR other water resources management-related state planning documents (i.e., state hazard mitigation, preparedness, response, and recovery plans as well as plans associated with changing hydrologic conditions, climate change, long-term sustainability, and resilience).

A non-profit organization (NPO) is an organization incorporated under the applicable laws of the State in which it operates as a nonprofit organization, exempt from paying Federal income taxes under Section 501 of the Internal Revenue Code (26 U.S.C. 501), and whose purposes include and are directly related to the purpose of the proposed PAS effort. The NPO must provide a letter from the affected local government consenting to the provision of such technical assistance to the NPO.

See the [PAS Project Partnership Agreements website](#) for Implementation Guidance for PAS for further information.

**Based on the provision that PAS projects with Tribes and specified territories receive a cost-share waiver under Section 1156 with 50/50 cost-sharing implemented thereafter, are Tribes and territories required to be cost-share partners, or can they just be a participant in a study?**

Under PAS, the Tribe or Territory would need to be the partner to receive the cost-share waiver. A cost-share waiver was provided for Tribes and U.S. Territories, as well as economically disadvantaged communities (EDCs), under Section 8119 of WRDA 2022 that would eliminate the need to use the Section 1156 waiver. Further information about the Section 8119 fee waiver is found on the Planning Toolbox under [Partnering with the Corps: Assistance to States, Tribes, and Communities](#) in the PAS section.

**If a non-federal sponsor does not yet have match funds available, should the sponsor pursue grants before or after requesting PAS funding?**

Planning assistance cannot be used to offset any required state contributions to Federal grants programs. Likewise, sponsors cannot use any Federal grant funds as their share of a cost-sharing agreement, except where the legislation authorizing the Federal grant program allows such use. It is expected that the sponsor has their cost-share funds available at the signing of an agreement.

**What level of design can be completed under a PAS Technical Assistance project?**

PAS is a limited to planning level assistance. Conceptual designs may be provided but site-specific design is not appropriate under this authority.

**Appropriate Uses of PAS & Program Limitations**

**Are there limits or caps on the cost of a single study?**

The intent of the PAS program is not to conduct feasibility-level type projects. That said, there are no strict cost limits in place, and projects typically range from \$100K up to \$500K total. In some cases, additional study needs or tasks are identified once a PAS project starts, and in those cases, it is appropriate to amend an agreement or sign a new agreement with the non-federal sponsor. Please feel

free to coordinate with your MSC and HQ PAS Program Manager for any studies outside of that cost range.

**In some Districts, Office of Counsel has taken a very narrow view of “comprehensive planning efforts,” and will therefore not sign off on agreements unless Districts move the projects to technical, which prevents non-federal sponsors the ability to contribute work in kind. Is there any advice available for how to better define “comprehensive” for the purposes of the PAS Program?**

Comprehensive Plans are defined above. The Office of Counsel (OC) Community of Practice has various efforts pending to ensure consistent legal advice, which one of these will be a training opportunity offered to all counsel. For any issues or concerns with OC opinions or issues, do not hesitate to engage your vertical team to address accordingly.

**If USACE resources are unable (or unavailable) to fully achieve a partner’s goals, can USACE work with, and provide funds to, another federal agency to provide assistance on projects?**

Technically yes, although this is not a frequent occurrence under the PAS program. The PAS program is intended to provide USACE expertise, but sometime resources are constrained or other expertise is needed. If a team determines there is a need to work with another federal agency, they should coordinate with their MSC PAS Program Manager and National PAS Program Manager to ensure that the correct case-by-case scenario guidance is provided and applied. Additionally, there are other mechanisms in place for USACE to utilize the resources of other federal agencies. For example, all federal agencies have an environmental justice directive, and so they are able to provide stand-in resources where USACE authorities might be limited.

**Has the PAS Program ever been used to model land cover and/or land use change impacts to watershed nutrient loading?**

The PAS Program can be used to model land cover and/or land use change impacts to watershed nutrient loading. A number of Districts have worked with the Engineer Research and Development Center (ERDC) to model nutrient loading.

**Have there been any cultural resources-related projects conducted under the PAS program?**

While there have been a few projects with small cultural resources components done under PAS, the majority of the work falls under flood risk management and ecosystem restoration.

**Is it appropriate to use PAS funds to initiate the approval process from the Office of Management and Budget (OMB) for economic surveys prior to the start of a General Investigations (GI) study?**

No, this is not an appropriate use of PAS funds. The PAS program will not be used to supplement efforts under other ongoing or otherwise authorized USACE programs or projects, such as feasibility studies.

**Is it possible to convert a GI study to a PAS study if the non-federal sponsor decides to move ahead on the project without direct federal participation?**

Yes, if the non-federal sponsor requests to terminate a GI study, they may proceed with a PAS study as appropriate. This should be coordinated with the appropriate vertical team.

### **Internal PAS Coordination**

#### **Where does PAS management typically “sit” within USACE (i.e., Districts vs. MSCs, Planning vs. Project Management vs. Engineering & Construction)?**

While each district may be structured differently, the PAS program typically resides within Planning or Project Management and draws support from Engineering and other functional offices.

#### **Are Districts responsible for uploading funding requests into RI-TACOd (Remaining Items Technical Assistance and Coordination Outcomes Database), or is the MSC responsible for submitting requests?**

All districts are responsible for their PAS projects in the RI-TACO database. Each project must be input to RI-TACO database to include funding requests, scope of work, executed agreement, and all required information. Once the district has completed the project entry, they submit it to the MSC for review who will then submit to HQ for review and approval and release of funds. The district is responsible for maintaining and updating their PAS project records as well as requests for PAS Negotiations funding in the RI-TACO database.

#### **Can a District issue a response to an applicant’s Letter of Interest (LOI) if it determines that PAS is not a good fit for the request?**

Ideally, the non-federal partner would understand ahead of time what the PAS program can and can’t provide, and the request would reflect this understanding. If an applicant requests assistance beyond the scope and authority of PAS, it is encouraged that the district work with the applicant to identify a more appropriate Corps authority to address their needs.

#### **What funds should be used to initiate the agreement with the PAS project sponsor?**

PAS negotiations funds (also known as coordination funds) can be used to initiate an agreement with a non-federal partner.

#### **For a PAS project expected to span multiple years, are District teams expected to request and receive all project funding up front? In addition, are Districts expected to have all of the non-federal sponsor’s funds in hand before rolling out the project, even if it will be executed over multiple years?**

If a project will span multiple years, the District would lay out the scope and costs by year. Additional phases, as needed, can be covered by an amendment to the agreement or under a new agreement. The intent of the PAS program is not to have very long multi-year studies. Typically, federal funds would be provided per year for the work to be done within that fiscal year with a signed agreement. As such, the non-federal sponsor’s matching funds must be in hand prior to any expenditures. The cost-share balance should be maintained such that only funds that are matched and in hand should be spent. Please feel free to ask your MSC or the PAS Program Manager if further clarification is needed.

### **Environmental Justice & PAS**

#### **Are there ways to describe the economically disadvantaged nature of a community if the community does not meet the WRDA 2020 Section 160 definition?**

In order to receive the cost-share waiver provided for under Section 8119 WRDA 2022, the community must meet the WRDA2020 Section 160 definition.

**Are there plans to expand the Tribes definition to include Alaskan and Native Hawaiian Organizations as PAS partners?**

Alaskan Native Organizations are currently eligible partners in the PAS Program. The definition of “Tribal Organization” is provided for under 25 U.S.C. 5304 where Alaskan Native Corporations are included within the definition of Indian Tribes, and as such are eligible partners in the PAS program and thereby eligible for consideration under the Section 8119 WRDA 2022 fee waiver.

Native Hawaiian Organizations that are non-profit organizations may be eligible to partner with USACE, provided that they follow the requirements as outlined in the [Implementation Requirements for Section 22 of the Water Resources Development Act of 1974, as amended, and Non-Federal Interests](#).

**In heterogenous areas that include both economically disadvantaged communities and non-disadvantaged communities within the considered census districts, is there a project area or population percentage threshold for a project to be able to count toward Justice40?**

Justice40 analysis for PAS is conducted at the HQ level using the latitude and longitude for the center point of the project’s study area, at this time.

When considering eligibility for the Section 8119 fee waiver, a study area may encompass both eligible and non-eligible tracts under the definition of EDC provided in the IG for Section 160 of WRDA 2020. In the case that more than 51% of the study area is eligible as an EDC, the Section 8119 fee waiver can be applied. In cases where the 51% threshold is not met, but the PAS assistance would provide benefits specifically to eligible EDC(s), the district can prepare a description of the eligible communities and how the PAS effort would specifically benefit the community for consideration by the Division and HQ PAS Program Managers. An example may be that while 51% of the study area is not an eligible EDC(s), a large concentration of the population within the study area is an eligible EDC(s) that would benefit from the PAS assistance.