



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET NW
WASHINGTON, D.C. 20314-1000

CECW-I

MAR 11 2008

MEMORANDUM FOR Commanders, Major Subordinate Commands, Districts, and Separate Field Operating Activities

SUBJECT: Engineer Circular for Civil Works Execution, Fiscal Year (FY) 2008

1. The enclosed subject Engineer Circular (EC) provides guidance on the execution of the Civil Works Fiscal Year (FY) 2008 Program and incorporates changes resulting from the Energy and Water Development Appropriations Act, 2008 (E&WDAA 08) (PL 110-161), and the accompanying Joint Explanatory Statement.
2. The EC is relevant to the entire Civil Works Program as appropriate in the E&WDAA 08. I encourage Commanders to give this their personal attention. It needs to be read and understood by all who contribute to the success of our Program. Our success is dependent on the entire team pulling in the same direction. There are a number of important points of emphasis concerning this EC.
 - a. The EC contains new reprogramming rules as set forth by law.
 - b. Schedule all available funds, including carry-in that has been allotted to your items of work. Funds that cannot be obligated in FY 2008 are scheduled as carryover.
 - c. The EC emphasizes the importance of network schedules and their integration with the obligation schedules. The network schedules are essential to the Project Management Business Process and the successful prosecution of our work. A date of 29 Feb 08 was established for a "lock-in" of baseline schedules, which set expectations and measure performance. This date was reflected in earlier drafts and widely publicized throughout the organization. All schedules will reflect a reasonable assessment of risk and its impact to the schedule.
 - d. The EC contains an appendix dedicated to the management of the Continuing Authorities Program. There are a number of changes in this area as we continue to improve our management of this important program.

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e. The Expenses, Regulatory, Flood Control and Coastal Emergency, and Formerly Utilized Sites Remedial Action Program appropriations will be scheduled and managed in P2.

f. The Expenses appropriation is allocated by labor, non-labor, and program account so that we may better manage and maximize our Full Time Equivalents.

3. In these times of tight budget constraints, I remind you of the importance of "doing what we said we would do." The amount of carryover funds in the Civil Works Program the past year has raised the interest in our Appropriations Subcommittee. We must concentrate on executing our Program and projects within all the funding available to us. Your scheduled carryover will be a point of emphasis and discussion throughout the year as we strive to lower our current carryover to a manageable and defensible level.

4. My point of contact is the Programs Integration Division Chief, Mr. Gary Loew.

FOR THE COMMANDER:

Encl
as



DON T. RILEY
Major General, USA
Director of Civil Works

CECW-I

Circular
No. 11-2-192

11 March 2008

EXPIRES 30 September 2008
Programs Management
EXECUTION OF THE ANNUAL CIVIL WORKS PROGRAM

1. Purpose. This Circular provides United States Army Corps of Engineers (USACE) program and project management policies and practices to ensure that execution of the Fiscal Year (FY) 2008 Civil Works Program is conducted in accordance with the Energy and Water Development and Related Agencies Appropriations Act, 2008 (FY 2008 E&WDAA), direction in the Joint Explanatory Statement and House and Senate Appropriations Committee reports accompanying the Act, and Administration policies. This document provides guidance and is not to be construed as an official legal opinion regarding any particular item in Act language or accompanying reports.
2. Applicability. This Circular applies to all USACE elements having Civil Works responsibilities and is applicable to all USACE Civil Works activities. This guidance is effective immediately, and supersedes all other reprogramming guidance included in ER 11-2-201. District and Division offices shall inform CECW-I of any problems with the implementation of this guidance.
3. Objective. The objective for the execution of the FY 2008 Civil Works Program is to execute the Civil Works program effectively and efficiently, consistent with the FY 2008 E&WDAA, Committee report guidance, and Administration policies. Execution performance measurement will be based on development of accurate network analyses and milestone, obligation, and expenditure schedules and the execution of both the account (fiscal) and work activities scheduled (physical).
4. References.
 - a. ER 5-1-11, Management, USACE Business Process.
 - b. ER 37-2-10, Financial Administration - Accounting and Reporting - Civil Works Activities.
 - c. CEPR-ZB memorandum, 22 Mar 06, subject: PARC Instruction Letter (PIL) 2006-05, Continuing Contracts and Incrementally Funded Contracts for Fiscal Year 2006.
 - d. CECW-IP memorandum, 1 May 06, subject: Continuing Contracts for Operation and Maintenance Work.
 - e. ER 1105-2-100, Planning - Planning Guidance Notebook.
 - f. Chief of Staff, FY 2008 Presidents Budget Justification Statement, 5 February 2007.
 - g. CECW-CP memorandum, 30 Mar 07, subject: Peer Review Process.
 - h. CEPR-ZA memorandum, 17 Sep 05, subject: Request for Approval of Incrementally-Funded Contracts Clause.
 - i. ER 11-1-321, Army Programs Value Engineering.

- j. House Report 110-185.
- k. Senate Report 110-127.
- l. House Report 110-497, Joint Explanatory Statement accompanying Pub. L. 110-161.
- m. Energy and Water Development and Related Agencies Appropriations Act, 2008, Pub. L. 110-161, Division C, 121 Stat. 1940 (2007).
- n. Memorandum, CECW-HS, 23 Jan 08, subject: Guidance for the Prioritization of Fiscal Year (FY) 2008 Levee Safety Program Inspection Funds.

5. Definitions. For definitions see Appendix A.

6. Scheduling.

a. Network Schedules. Project Managers are to create and maintain network analysis schedules for their projects in P2. These schedules must have appropriate activities with accurate resources, durations, successor, predecessor, lead, and lag relationships and milestones and, be reflective of the FY 2008 appropriations provided as well as carry-in funds available to their project. Project managers should base the network schedules on their best assessment of what is achievable within their project's fiscal means and must reflect an analysis of the risks and opportunities facing the project. The project network schedules will form the foundation for accurate and realistic milestone, obligation, and expenditure schedules that will be measured in Project and Program Review Boards (PRB) at all organizational levels. Districts should baseline their projects in P2 Primavera Project Manager consistent with the baseline ("lock") which HQUSACE will establish in P2 OFA.

b. Obligation and expenditure schedules. Obligation and expenditure schedules will be developed in P2 and will be consistent with and linked to the projects' network schedules. Performance will be evaluated on the execution of what is scheduled. For fully funded contracts, the obligation schedule should include sufficient funding required in the month of the scheduled contract award to cover the full contract amount. For contracts with a continuing contracts clause or incremental funding clause, the obligation schedule should include sufficient funding to cover the Government estimate of contractor earnings for FY 2008. The expenditure schedules should account for anticipated payment of the government estimate of contractor earnings. Planned obligations (including contract amount and in-house labor) may not exceed the sum of the amount allocated to the project in FY 2008, carryover funds for that project, and any approved reallocations or reprogrammings. In support of the obligation and expenditure schedule, the scheduled contract award milestones must be included in P2.

c. Scheduling carryover. All funds must be scheduled for FY 2008 execution or for carryover. Project Managers should carefully plan the execution of their projects to avoid carryover whenever possible. After basic schedules are established, Districts will be asked to provide data on the principal reasons for all carryover exceeding the following thresholds: I and MR&T I: \$100,000; C and MR&T C: \$1,000,000; O&M and MR&T M: \$200,000; and FC&CE: \$1,000,000. Districts will use the "Reasons for Scheduled Carryover in Basic Schedules" data entry form in P2-OFA to enter one of the following five reasons for each project with carryover exceeding the applicable threshold. In the same data entry form, districts also will identify the amount of carryover that will never be needed for the project. Suspense for completion of the data entry form is 6 March 2008. The associated report will be used as a diagnostic tool to develop methods and policies to reduce carryover in future years. The five reasons are:

(1) Carried-in funds exceeded stated capability or otherwise could not have been used in the current FY.

(2) Funds provided for the current FY exceeded stated capability or otherwise could not have been used in the current FY. Most of the funds scheduled for carryover are funds that the Committees

provided for FY 2008 in excess of the final stated capability, or restricted in Act or committee language such that they could not have been obligated in the current fiscal year, or provided in a funding increment that, based on the final stated capability and capability increments presented to the Committees, could not have been contracted or used for a useful increment of work.

(3) Basic schedule reflects already-changed conditions that affected current FY capability such that funds cannot be used in the current FY. Most of the funds scheduled for carryover no longer can be obligated due to changed conditions that occurred since the final stated capability and prior to establishment of the basic schedule. These conditions could involve non-Federal partnering, cost changes, legal or policy constraints, or bidding, contracting, or other execution issues.

(4) Basic schedule reflects expected changes in future conditions that affect current FY capability such that funds cannot be used in the current FY. Most of the funds scheduled for carryover no longer can be obligated due to changes in conditions expected to occur after the date the basic schedule is established. These conditions could involve non-Federal partnering, cost changes, legal or policy constraints, or bidding, contracting, or other execution issues.

(5) There was a business decision to carry over funds to finance in-house costs for fully funded contracts or otherwise ensure effective prosecution of work.

d. The network analysis milestones, obligation and expenditure schedules are baselined (“locked”) in P2 OFA as of 29 February 2008.

7. Execution. See Appendices A, H, N, and O. For specific accounts and programs, see Appendices I through M.

a. Assignment of P2 Program Codes and CEFMS work items. Assignment of a proper program code in P2 must be completed prior to issuance of any work allowance. The Program Code field will be used to store the Congressional line-item identifier. The associated P2 Program Code Description field will contain the “official” project name such as shown in the authorizing legislation. Only those Program Codes which are on the list of valid values in P2 can be selected. All P2 projects that are associated with a historic AMSCO / CWIS / PWI should populate the Program Code field in P2 with the AMSCO / CWIS / PWI number. Projects that are initiated in P2 and are not associated with a historic AMSCO / CWIS / PWI project (i.e. new projects), will still use a Program Code assigned from a Program Code list established by HQUSACE. The new Program Code will be the same as the P2 Project Number for the new project. See Appendix N for additional information. All CEFMS transactions involving Civil Works funds must be associated with a work item assigned to a P2 Project to ensure all CEFMS data is accounted for at the P2 Project Level.

b. Work Allowances. See Appendices A and O.

(1) Work allowances are issued by CECW-I in P2 to ensure that the funds appropriated by Congress are used for the purposes intended by Congress (31 U.S.C. 1301). The actual funds distribution document is the Funding Authorization Document (FAD) and is issued by the Resource Management Directorate. Work allowances are the work authorization documents that link the amount of funds available for obligation and expenditure under the FAD for each P2 Program Code. The combination of the FAD and Work Allowance provides authority and funding for the requested work.

(2) Allocation of Work Allowances. Work allowances will be allocated by the Account Managers in CECW-I by specific P2 Program Code for the I, C, MR&T, O&M, FUSRAP, and FCCE accounts. For the I, C, MR&T and O&M Accounts, each P2 Program Code with an amount identified in the tables in the Joint Explanatory Statement will receive that amount. For other appropriations, see their respective appendices. However, where a table identifies an amount for a line item (such as a Remaining Item) that does not itself receive a work allowance, work allowances will be issued to the P2 Program Codes funded from that line item.

(3) Work allowances for the Inland Waterways Trust Fund (IWTF) and the corresponding Construction account work allowances for IWTF projects will be issued in increments on a quarterly basis. Obligations toward continuing or incrementally funded contracts funded from the IWTF must be limited to a quarterly work allowance amount, based on expected earnings for each quarter, and the obligation schedule should be developed accordingly. See paragraph 9.e.

(4) Peer Review. In accordance with reference 4.g., the initial work allowance will NOT be issued for any study leading to authorization (except for the funds needed to complete a peer review plan) unless and until the peer review plan is posted and approved by the MSC on the HQUSACE website.

c. Reconciliation. If funds already obligated on a project during the Continuing Resolution exceed the amount finally allotted to the project in work allowances and FADs, reconciliation will be required. While the subcommittees will be notified of the action, the reconciliation is not a reprogramming action. **Divisions are responsible for identifying funds to enable reconciliation of their projects.**

d. Value Engineering.

(1) Value Engineering Workshops will be performed for all water resources projects and portions thereof with total project costs greater than or equal to \$2 million as defined in reference 4.i. Only the MSC Commander may waive this requirement for projects with costs between \$2 million and \$10 million. For projects with costs greater than \$10 million, only HQUSACE (CECW-CE) can waive the requirement. HQUSACE does not anticipate approving any waivers to this requirement during FY 2008. A workshop will be performed:

(a) in the Feasibility phase, preferably prior to final alternative selection;

(b) for Post Authorization Change Reports, Limited Reevaluation Reports, General Reevaluation Reports, after data collection/before economic analysis;

(c) for Detailed Design Reports after cost estimates; and

(d) for Plans and Specifications before 35 percent design.

(2) Value Engineering Workshops will be performed for all FUSRAP projects and portions thereof during the Feasibility Study. Only HQUSACE may waive this requirement.

(3) Value Engineering Workshops will be performed for work for others unless waived in writing by the customer placing the reimbursable order.

(4) The milestones for Value Engineering must be included in P2 and will be tracked by the Districts.

e. Execution Metrics. Execution performance measurement will be based on development of accurate network analyses and obligation and expenditure schedules and the execution of both the account (fiscal) and work activities scheduled (physical). The Project Manager shall accurately identify the appropriate business program using the Primary Business Program field for all activities in P2 which will have scheduled or actual obligations and/or expenditures in FY 2008. This is required in order to assess execution by business program. Primary Business Program is a mandatory data field which is entered in Oracle Projects at the project level. If activities within a project are in a different business program than the project's primary purpose, use the Primary Business Program (Override) activity code in Primavera Project Manager to identify the business program for those activities. The Civil Works FY 08 milestone, obligation, and expenditure Metric Guidance, including the list of Major Milestones and Leading Indicators, is provided in Appendix H.

8. Reprogramming and Reallocation. See Appendices A through E, I, N, and O.

a. General. Definitions in Appendix A are key. Note that not all work to be undertaken as a result of FY 2008 E&WDAA is a Program, Project, or Activity (PPA). Movement of funds to or from a PPA is a “reprogramming;” however, the movement of funds within a PPA that is not to or from a PPA is a “reallocation.” **Where a PPA is not a P2 project and did not receive a work allowance, movement of funds into or out of the PPA within the CEFMS register for the parent project nonetheless is a reprogramming.**

(1) Section 101(a) of the FY 2008 E&WDAA establishes legal limits with respect to the reprogramming of Civil Works funds to or from PPAs. Implementation of these is discussed in paragraphs 8.b. and 8.c. These limitations apply to all appropriations in FY 2008 E&WDAA, and to all carryover funds remaining from previous Civil Works appropriations and carried into FY 2008.

(2) In situations where there is uncertainty on application of the reprogramming or reallocation definitions, limits, or policies in this Circular, involve the vertical team through the MSC, RIT, and CECW-I Account Manager.

b. Reprogramming Prohibitions.

(1) Funds may not be reprogrammed in order to start a new start PPA. See Appendix A for definitions of “new start” and “PPA.” **This is an absolute prohibition in section 101(a)(1) of the FY 2008 E&WDAA.** In accordance with section 101(b) of the FY 2008 E&WDAA, CAP projects are exempt from this legal prohibition (however, see the policy prohibitions on initiating CAP projects elsewhere in this EC, including Appendix I). The prohibition does not apply to reallocating funds to a sub-item of a PPA that is not a PPA, or to reprogramming funds to a PPA that previously has received an allocation.

(2) Funds may not be reprogrammed from a PPA to eliminate the PPA. **This is an absolute prohibition in section 101(a)(2) of the FY 2008 E&WDAA.** This means that some, but not all, funds may be reprogrammed from an uncompleted PPA. The prohibition does not apply to reallocating funds from a sub-item of a PPA that is not a PPA, or to reprogramming funds from a PPA that is completed; however, the restrictions in paragraph 8.c. still apply.

(3) Funds for which the amount is specified in Act language may not be reprogrammed. In addition, depending on the wording of the Act language, funds may not be reprogrammed to a project for which the Act for that fiscal year specifies the amount.

c. Reprogramming Restrictions. Sections 101(a)(3) through 101(a)(10) of the FY 2008 E&WDAA establish limitations on reprogramming to or from PPAs. Exceeding the limitations requires prior written notification by the Assistant Secretary of the Army (Civil Works) to the House and Senate Appropriations Subcommittees for Energy and Water. After coordination with the Subcommittees, HQUSACE will provide notification that the proposed reprogramming has been approved, and will enter the transaction in P2.

(1) Absent notification by the ASA(CW) to the committees, USACE shall not initiate a reprogramming to a PPA that increases funds or personnel for the PPA, if funds for the PPA have been denied or restricted.

(a) “Denied” refers to:

(1) Any PPA where the funds are expressly denied in the Act, or in the narrative language of the Joint Explanatory Statement or House and Senate Reports if not superseded by the Joint Explanatory Statement such as “None of the funds available within this account are available to reimburse the Claims and Judgment Fund,” or

(2) Any PPA that is listed in a table within the Joint Explanatory Statement and provided \$0. A blank does not equal \$0. Omission of a PPA from a table should not be considered a denial unless the project or activity is also expressly denied funding in the Act or in the narrative language of the Joint Explanatory Statement or committee report.

(b) "Restricted" refers to express funding limits in the Act, or in the narrative language contained in the Joint Explanatory Statement, or House and Senate Reports if not superseded by the Joint Explanatory Statement, such as "Within the funds provided, the conferees direct that not more than \$xxx shall be provided..." However, if the language stipulates simply, "Within the funds provided \$xxx is provided to...", or "The conference agreement includes \$xxx, of which \$yyy is to" these phrases are not to be read as "restrictions."

(2) Absent notification by the ASA(CW) to the committees, USACE shall not initiate a reprogramming from a PPA of funds for which the Joint Explanatory Statement or either the House or Senate Report specified a purpose. This means that if narrative language directed how the funds provided for a PPA are to be used, or how any portion of such funds is to be used, the funds, or the affected portion thereof, may not be reprogrammed from the PPA absent notification by the ASA(CW). This restriction applies even when funds are excess to the needs for a specific PPA.

(3) Absent notification by the ASA(CW) to the committees, USACE shall not initiate a reprogramming that augments or reduces an existing PPA in excess of the limits outlined below. Except as noted, reprogramming authority up to these limits is assigned to the MSC but may be further delegated to the District. Any reprogramming that would exceed these limits must be submitted through the MSC to the RIT for coordination, through the ASA(CW), with the Energy and Water Subcommittees and subsequent final approval by the HQUSACE account manager. See Appendix B for the processing and approval levels for reprogramming actions. See Appendix E for examples of reprogramming limit calculations. The goal is to process only one action per FY per PPA that requires notification of the Subcommittees for Energy and Water. All proposed reprogramming requests that will require congressional notification should include a draft letter for signature by the ASA(CW) (see Appendix C) and a reprogramming data sheet (see Appendix D). Contact CECW-I for an Excel spreadsheet following this template.

(a) Investigations and MR&T Investigations.

(1) For a PPA with a baseline of more than \$100,000, except in the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables, the cumulative amount of reprogrammings is limited to 25 percent of the baseline up to a maximum of \$150,000.

(2) For a PPA with a baseline of no more than \$100,000, except in the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables, the cumulative amount of reprogrammings is limited to a maximum of \$25,000.

(3) For a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables, but to which funds otherwise may be reprogrammed legally (e.g. it is not a new start), any reprogramming into the PPA must be for existing obligations and associated administrative expenses, and the cumulative amount of reprogrammings into the PPA is limited to a maximum of \$25,000. Each reprogramming into such a receiving PPA requires the approval of CECW-I, even if it meets these limits.

(b) Construction and MR&T Construction.

(1) For a PPA with a baseline of more than \$2,000,000, except in the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables, the cumulative amount of reprogrammings is limited to 15 percent of the baseline up to a maximum of \$3,000,000.

(2) For a PPA with a baseline of no more than \$2,000,000, except in the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables, the cumulative amount of reprogrammings is limited to a maximum of \$300,000.

(3) For a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables, but to which funds otherwise may be reprogrammed legally (e.g. it is not a new start), any reprogramming into the PPA must be for existing obligations and associated administrative expenses, and the cumulative amount of reprogrammings into the PPA is limited to a maximum of \$300,000. Each reprogramming into such a receiving PPA requires the approval of CECW-I, even if it meets these limits.

(4) Notwithstanding (b) (1) through (b) (3) directly above, a maximum cumulative amount of \$3,000,000 may be reprogrammed into a PPA for settled contractor claims, changed conditions, or real estate deficiency judgments. HQUSACE must be apprised of all these actions. The limit under this paragraph is separate from the limits under (b) (1) through (b) (3) above.

(c) Operation and Maintenance and MR&T O&M.

(1) For a PPA with a baseline of more than \$1,000,000, except in the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables, the cumulative amount of reprogrammings is limited to 15 percent of the baseline up to a maximum of \$5,000,000.

(2) For a PPA with a baseline of no more than \$1,000,000, except in the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables, the cumulative amount of reprogrammings is limited to a maximum of \$150,000.

(3) For a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables, but to which funds otherwise may be reprogrammed legally (e.g. it is not a new start), the cumulative amount of reprogrammings into the PPA is limited to a maximum of \$150,000. Each reprogramming into such a receiving PPA requires the approval of CECW-I, even if it meets these limits.

(4) No limit is placed on a reprogramming that is required in order for USACE to be able to respond to emergencies. See Appendix A for the definition of an emergency. Notification of both the House and Senate Appropriations Subcommittees for Energy and Water must be coordinated with the MSC, RIT, and CECW-I immediately after an emergency reprogramming. Reprogrammings for emergencies do not count toward the limits in paragraphs (c) (1) through (c) (3) directly above.

(d) Formerly Utilized Sites Remedial Action Program. The cumulative amount of reprogrammings into a receiving PPA is limited to a maximum of 15 percent of the baseline.

d. Inspection of Completed Works (ICW) Reprogramming Limitations. In accordance with reference 4.n., ICW funds are limited to ICW activities only. Reprogramming of ICW funds within a MSC's region is permissible from one state to another within the limitations above. All unobligated ICW funds scheduled for carryover are subject to revocation by HQs to meet nationwide needs.

e. Documentation of each field reprogramming action must be loaded into the Work Allowance Module in P2/OFA to ensure that quarterly reports to Congress and other reports on reprogramming are accurate. Reallocations that move funds between EROCs, Type of Funds (Approp/CCS), or Program Codes (AMSCO) must also be loaded into P2/OFA. Accurate descriptions explaining the use of the funds on the gaining project or activity, and the reason the funds are excess to the source project or activity must be included in the P2/OFA Work Allowance Module. Actual transfer of funds in CEFMS will not be accomplished until receipt of reprogramming approval through an email confirmation from P2/OFA.

f. Reprogramming Payback. Funds may not be reprogrammed from a PPA that receives an allocation from the Reprogramming Payback line item in the C or I account without the approval of HQUSACE. The intent of these funds is the reduction and/or elimination of USACE's commitments to restore prior year reprogramming actions. If funding is identified which cannot be used for this purpose, it should be fully coordinated through the MSC to the RIT for decision and action at HQUSACE.

g. Source of Funds for Reprogramming. Each reprogramming action shall be treated as a one time transaction with no commitment or expectation to return funds to the source project or activity. Priority for use of excess funds will be determined by the Regional Business Center in coordination with the MSC RIT and CECW-I. USACE is prohibited by law from reprogramming funds that are specified in law, including reprogramming funds among the various Continuing Authorities Programs for FY 2008. In identifying source funds for a proposed reprogramming action, the following priorities should be examined first:

(1) Funds that are excess and not required for the source PPA in any fiscal year.

(2) Funds that are excess and not required for the source PPA in FY 2008 or FY 2009, assuming enactment of the President's FY 2009 budget.

9. Contracting. See Appendices F and G.

a. Acquisition Strategies. The focus for all FY 2008 acquisition strategies must be to scope project activities in such a way that scheduled FY 2008 activities can be accomplished within available funding. Contracts funded under the C Account and the C portion of the MR&T Account of less than \$10 million should be fully funded. Contracts over \$10 million, and where the performance period extends beyond the end of the fiscal year, may use a fully funded contract under \$10 million with options, an incrementally funded contract, or a contract including the special continuing contract clause or true continuing contract clause if there is a sound business case for use of these continuing contract clauses, and the appropriate approvals are requested in a timely manner and received. For the O&M Account and the O&M portion of the MR&T Accounts, a continuing or incrementally funded contract should be considered only if the performance period extends beyond the end of a fiscal year by more than three (3) months, the contract meets the 5 requirements defined in reference 4.d., and funds are included in the FY 2009 budget for continuation of work.

b. Plan to live within the funds available to the project. Care must be taken in development of the contract scope, the government estimate, and the timing of the contract award, to ensure uncertainties (e.g. escalating energy and material costs, etc.) are adequately included and sufficient funds are available within the District to cover scheduled activities for the fiscal year. The development of contract scopes should incorporate the processes and lessons learned in the Military Program, (that is, develop contract scopes within 80-90 percent of funds available) and should assess the acceptability of other contracting vehicles (i.e., Option Contracts, IDIQ contracts, Job Order Contracts (JOC), Purchase Orders, etc.) to ensure an awardable contract.

c. Fully Funded Contracts and Fully Funded Contracts with Options. Fully funded contracts meeting the criteria in this circular can be awarded without HQUSACE approval. Funds must be available prior to solicitation for the entire contract amount or the base contract amount on Option contracts. Any contracts with options awarded in FY 2008 must be structured such that the base contract and each option will produce a useful increment of work (i.e., increment of work that produces benefits or outputs, and will remain in a safe condition) or navigation reach that will not rely upon additional out year funding to implement. As long as the base contract and each option produce useful increments of work and do not set an expectation of continued federal funding beyond the current fiscal year, the contract may be approved by the District Commander. However, if the scope of the base contract and/or the options is not independently useful and instead creates an expectation of continued federal funding beyond the current fiscal year, the acquisition plan must be approved in advance of solicitation by the ASA(CW).

d. Continuing Contracts. See Appendix G for approval levels. For all contracts using a continuing contract clause or an incrementally funded contract clause, the amount estimated for FY 2008 contractor activities and reserved to the contract must not exceed the amount provided for the project in the FY 2008 appropriations, plus any carryover for that project, and any amounts approved for reprogramming to the project. All funds to be reserved must be available for the project prior to bid opening.

(1) True Continuing Contract Clause: Headquarters does not expect to recommend that the ASA(CW) approve advertisement of any new contracts using the true continuing contract clause in FY 2008.

(2) Special Continuing Contracts. This clause (EFARS 52.232-5003) permits USACE to enter into multi-year contracts while only obligating the government's estimate of contractor earnings for the first fiscal year. This "special" continuing contract clause does not permit the contractor to work beyond the amount reserved and also expressly requires the contractor to stop working when funds are exhausted. For a project to use this clause, it must have funding included in the President's budget for the out years.

(3) Incrementally Funded Contracts. As with the case of continuing contracts, the use of incrementally funded contracts (i.e., contracts using an incrementally funded clause (EFARS 52.232-5004 or DFARS 252.232-7007) must be done carefully and judiciously as part of the acquisition planning process. The incremental funding clauses may be used for projects that do not have funding included in the budget for the out years. The incrementally funded contract scope of work to be funded with FY 2008 funds must produce a useful increment of work (i.e., increment of work that produces benefits or outputs, and will remain in a safe condition) or navigation reach that will not rely upon additional out year funding to implement. So long as the scope of work to be funded in with FY 2008 funds will complete a useful increment of work or navigation reach that does not rely upon additional out year funds to implement, use of the incremental funding clause can be approved by the District Commander. However, the ASA(CW) must approve the use of any incrementally funded contract that does not complete a useful increment of work or navigation reach with funds available to the contract in FY 2008 in advance of solicitation.

e. Inland Waterways Trust Fund Contracts. Until such time that the ASA(CW) determines that sufficient revenues are projected to exist within the Inland Waterways Trust Fund for inland waterway construction projects and rehabilitations:

(1) Prior approval of the ASA(CW) is required to advertise any contract, make a financial obligation under any existing contract, or award any option under an existing contract. Prior to advertising a contract, obligating funds under a contract, or awarding an option an MSC should submit a request to CECW-I. The request should discuss the date of the proposed action, whether the proposed action is funded or budgeted, the relative priority of the proposed action, and the benefits of the action and consequences of deferring the action. HQUSACE will not recommend approval of any proposed IWTF contract that uses the special continuing contract or incremental funding clause.

(2) HQUSACE does not anticipate recommending a contract, option, or obligation that, when added to already-approved contracts, options, and obligations, is not affordable within projected revenues under statutes in effect at the time.

f. Reporting. A quarterly report documenting the status of all existing contracts using the "true" continuing and "special" continuing contract clauses is prepared by CECW-I. The report lists each contract separately, with current year and projected out-year obligation requirements. MSCs will be requested to update contract information quarterly.

g. Contract Solicitation: When the Resource Manager cannot certify that sufficient funds are available at the time of solicitation, AFARS 5101.602-2(a) (ii) permits the Contracting Officer to solicit

for the contract so long as the Chief of Resource Management indicates in writing that there "is a high probability that the requirement will not be canceled." Funds must be available at the time of bid opening or proposal receipt

h. Bonneville Power Administration (BPA) Contracts: The use of incrementally funded contracts funded wholly from BPA is approved. See reference 4.h.

10. Implementation. This guidance is effective immediately. District and MSCs shall inform CECW-I of any problems with the implementation of this guidance.

FOR THE COMMANDER:



DON T. RILEY
Major General, U.S. Army
Director of Civil Works

15 Appendices:

- App A - Definitions
- App B - Processing and Approval of Reprogramming Actions
- App C - Appropriations Committee Notification Example for Standard Reprogramming
- App D - Template for Reprogramming Data Sheet
- App E - Calculation of USACE Reprogramming Limits, Examples
- App F - Format for Approval to Award a Continuing Contract
- App G - Conditions and Approval Levels for Use of Contract Clauses
- App H - Execution Metrics
- App I - Continuing Authorities Program
- App J - Expenses
- App K - FCCE
- App L - FUSRAP
- App M - Regulatory
- App N - Use of Program Codes in P2
- App O - P2 Transaction Types for FY 2008

APPENDIX A

Definitions

1. A **program, project, or activity (PPA)** is a water resources project study; a specifically authorized water resources project; an authorized environmental assistance program; a project in the Formerly Utilized Sites Remedial Action Program; a project in the Continuing Authorities Program; work that has received an allocation or sub-allocation in any Act or been directed to be performed in any Act; an item or sub-item appearing in the tables in any Statement of Managers / Conference Report for any fiscal year; or work that has received an allocation or sub-allocation with the tables in any House Report or Senate Report for any fiscal year if not superseded by the applicable Statement of Managers / Conference Report. **A sub-item appearing in the tables is a PPA within a PPA.**
2. A **reconciliation** is the movement of previously allocated or sub-allocated funds to or from a PPA, P2 Program Code, or P2 Project to reconcile the allocations and sub-allocations in a given FY with allotments under the Continuing Resolution Act for that FY.
3. A **reallocation** is a movement of previously allocated or sub-allocated funds that is within a PPA and that is not into or out of a PPA. Movements of funds between study phases and other movements of funds within the same PPA (other than into or out of PPAs within that PPA) are reallocations.
4. A **reprogramming** is any movement of previously allocated or sub-allocated funds into or out of a PPA. **Where a PPA is not a P2 project and did not receive a work allowance, movement of funds into or out of the PPA within the CEFMS register for the parent project nonetheless is a reprogramming.**
5. The **baseline** for a PPA, P2 Program Code, or P2 Project is equal to the unexpended carry-in, plus the amount, if any, identified for that PPA, P2 Program Code, or P2 Project in the Act or in the tables in the Joint Explanatory Statement for FY 2008, plus any additional amount allocated or sub-allocated to that PPA, P2 Program Code, or P2 Project in a work allowance or work allowances for FY 2008. Note that each allocation or sub-allocation increases the baseline of the applicable PPA, P2 Program Code, or P2 Project. This would only occur in very limited situations, such as for some remaining items that fund individual projects. The term is synonymous with the terms **base amount, base level, and base** used within section 101(a) the FY 2008 E&WDAA.
6. The **cumulative amount** is the net value of all reprogrammings into or out of a PPA within one FY. Reprogrammings into and out of a PPA offset each other, at least in part. The cumulative amount is used to determine whether limits for reprogramming have been exceeded. See Appendix B for business rules on limits. See Appendix E for examples.
7. An **emergency** is any event that could threaten public health, safety or the integrity of project features or could cause substantial adverse economic or environmental impacts, as determined by the District Commander and coordinated with the Division Commander.
8. **“for existing obligations and concomitant administrative expenses”**, as included in Section 101(a) (6) and (7) of the FY 2008 E&WDAA, means for accomplishing work that was initiated in a prior fiscal year and for the purpose of satisfying existing obligations and associated administrative expenses. An example of satisfying existing obligations is paying in-house labor for costs associated with a fully-funded contract for which performance is still under way. This term applies only if no funds were allocated or sub-allocated to a PPA in FY 2008, and only to Investigations or MR&T Investigations (\$25,000 limit) and Construction and MR&T Construction (\$300,000 limit). See Appendix B.
9. A **new start** is a P2 Program Code that has never received a work allowance in the applicable appropriation account.
10. A **P2 Program Code** is a mandatory field in P2 used to store the unique Congressional line-item identifier. See appendix N.

See also Appendix O.

APPENDIX B

Processing and Approval of Reprogramming Actions for PPA's

	Committee Notification Required?	Who Approves in P2 OFA
Initiate a PPA (move funds into a PPA never before funded in the applicable account)		
Non-CAP	Not Auth.	Not Auth.
CAP	1/	HQ P.M.
Eliminate a PPA (move all funds out of PPA that is not completed)	Not Auth.	Not Auth.
Investigations & MR&T Investigations – limits on cumulative amount reprogrammed to or from a continuing PPA		
If baseline is > \$100,000, except in the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables		
Reprogram > 25% of baseline or > \$150,000	Before	HQ A.M.
Reprogram NTE 25% of baseline and NTE \$150,000		Division 2/
If baseline is up to \$100,000, except in the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables		
Reprogram > \$25,000	Before	HQ A.M.
Reprogram NTE \$25,000		Division 2/
If the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables		
Reprogram > \$25,000 to receiving PPA	Before	HQ A.M.
Reprogram NTE \$25,000 to receiving PPA		
Not for existing obligations & related	Before	HQ A.M.
For existing obligations & related		HQ A.M.
Construction & MR&T Construction – limits on cumulative amounts		
In the case of a receiving PPA, when reprogramming is for settled claim, changed conditions, or real estate deficiency judgment		
Reprogram > \$3,000,000 to PPA	Before	HQ A.M.
Reprogram NTE \$3,000,000 to PPA		Division 2/
In any other case		
If baseline is > \$2,000,000, except in the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables		
Reprogram > 15% of baseline or > \$3,000,000	Before	HQ A.M.
Reprogram NTE 15% of baseline and NTE \$3,000,000		Division 2/
If baseline is up to \$2,000,000, except in the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables		
Reprogram > \$300,000	Before	HQ A.M.
Reprogram NTE \$300,000		Division 2/
In the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables		
Reprogram > \$300,000 to receiving PPA	Before	HQ A.M.
Reprogram NTE \$300,000 to receiving PPA		
Not for existing obligations & related	Before	HQ A.M.
For existing obligations & related		HQ A.M.

O&M and MR&T O&M – limits on cumulative amounts

When the reprogramming is for an emergency	After	Division 3/
In any other case		
If baseline is > \$1,000,000, except in the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables		
Reprogram > 15% of baseline or >\$5,000,000	Before	HQ A.M.
Reprogram NTE 15% of baseline and NTE \$5,000,000		Division 2/
If baseline is up to \$1,000,000, except in the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables		
Reprogram > \$150,000	Before	HQ A.M.
Reprogram NTE \$150,000		Division 2/
In the case of a receiving PPA for which no funds were specified in the Act or Joint Explanatory Statement tables		
Reprogram > \$150,000 to receiving PPA	Before	HQ A.M.
Reprogram NTE \$150,000 to receiving PPA		HQ A.M.

FUSRAP

In the case of a receiving PPA, reprogram > 15% of baseline	Before	HQ A.M.
All other cases		Division 2,4/

1/ Sometimes, by policy. HQ program manager approves. See Appendix I.

2/ MSC approves but may delegate approval authority for within-District.

3/ HQUSACE must be apprised and Committees must be notified promptly.

4/ HQUSACE must be apprised.

HQ A.M. = HQ Account Manager

APPENDIX C

Appropriations Committee Notification Example for Standard Reprogramming

Honorable Peter J. Visclosky
Chairman, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515-6020

Dear Mr. Chairman:

This letter is to inform you that the Department of the Army plans to reprogram \$XXX,000 of [name account, e.g. Construction] funds to the XXXXXX project from the YYYYYY project.

[Use these sentences if applicable: Thus far in FY 2008, a cumulative net amount of \$BBB,000 has been reprogrammed to the XXXXXX project. With this reprogramming, cumulative net reprogrammings to the XXXXXX project in FY 2008 would be \$CCC,000.] The reprogramming baseline for the XXXXXX project is \$DDD,000. [Use the following sentence if applicable: In accordance with section 101(a)(___) of the Act, prior notification of the House and Senate Appropriations Committees is required for reprogrammings to or from the project that would exceed \$EEE,000 on a cumulative net basis.]

[Use these sentences if applicable: Thus far in FY 2008, a cumulative amount of \$GGG,000 has been reprogrammed from the YYYYYY project. With this reprogramming, cumulative net reprogrammings from the YYYYYY project in FY 2008 would be \$HHH,000.] The reprogramming baseline for the YYYYYY project is \$III,000. [Use the following sentence if applicable: In accordance with section 101(a)(___) of the Act, prior notification is required for reprogrammings to or from the project that would exceed \$JJJ,000 on a cumulative net basis.]

The XXXXXX project was authorized **[explain]**. The additional funds are required for the XXXXXX project to fund **[explain]**. The funds are not required for the YYYYYY project because **[explain]**.

I am sending an identical letter to the Honorable Byron L. Dorgan, Chairman, Subcommittee on Energy and Water Development, Committee on Appropriations, United States Senate.

Very truly yours,

John Paul Woodley, Jr.
Assistant Secretary of the Army
(Civil Works)

CF: Honorable David Hobson
Ranking Member

APPENDIX D

Format for Reprogramming Data Sheet

	DONOR PROJECT	GAINING PROJECT
APPROPRIATION ACCOUNT		
BUSINESS PROGRAM		
PROJECT NAME		
FY 2008 BASELINE (SUM OF ALLOCATIONS AND UNEXPENDED CARRY-IN)		
PROPOSED REPROGRAMMING AMOUNT		
WHY ARE FUNDS SURPLUS (DONOR); PROPOSED USE OF FUNDS (GAINER)		
IF FUNDS WERE NOT REPROG., IN WHICH FY COULD THE DONOR USE THEM (ASSUME ENACTMENT OF PRES. FY 2009 BUDGET)		
BUDGET HISTORY SINCE FY 2004 (NOT ENACTED HISTORY) (SHOW FY's BUDGETED)		
2004		
2005		
2006		
2007		
2008		
2009		
IF NOT IN MOST RECENT BUDGET, WHY NOT?		
FY AND PAGE NUMBER FOR LATEST J SHEET		
CONSISTENT WITH POLICY?		
IF CONST OR PED, DID OMB EVER "CLEAR" IT WITH A FAVORABLE EXECUTIVE BRANCH POSITION? IF SO, WAS IT LOW BUDGET PRIORITY?		
IF CONST OR PED, DOES IT MEET CURRENT CONST GUIDELINES? WHICH (E.G. BCR, INUNDATION HAZARD TO LIFE, ETC.)?		
SUMMARY OF BUSINESS CASE AND ANY SPECIAL CONSIDERATIONS, E.G. POLITICAL, SAFETY, PAYBACKS)		
DO MEMBERS FOR DONOR PROJECT OBJECT?		
DROP DEAD DATE, AND WHY		

APPENDIX E

Calculation of USACE Reprogramming Limits, Examples

Note: Limits apply to cumulative amount. Limits apply to both reprogrammings from a project and reprogrammings to a project, although only reprogrammings to a project are shown in the examples below. Cumulative amount is net, that is, reprogrammings to a project and from a project offset each other, at least in part.

Reprogramming Example No. 1 (Investigations):

a. PPA needs \$100,000 to fully fund award of an A-E contract. Funds in the amount of \$25,000 have been reprogrammed to the PPA earlier in FY08.

- FY 2008 Allocations:	\$ 0
- Prior Unexpended Amount:	<u>\$550,000</u>
- FY 2008 Baseline:	\$550,000
- Reprogramming Limit:	\$ 0
- Cumulative Amount:	\$25,000 + \$100,000 = \$125,000 > \$0

- Committee notification required because receiving PPA did not receive an allocation in the Act or Joint Explanatory Statement and the reprogramming is not “for existing obligations and concomitant administrative expenses,” so its limit is zero

Reprogramming Example No. 2 (Construction):

a. PPA needs \$800,000 to award a fully funded contract. Funds in the amount of \$250,000 have been reprogrammed to the PPA earlier in FY 2008.

- FY 2008 Allocations:	\$2,500,000 (at least partially from JES table)
- Prior Unexpended Amount:	<u>\$ 300,000</u>
- FY 2008 Baseline:	\$2,800,000
- Reprogramming Limit:	\$ 420,000.
- Cumulative Amount = \$250,000 + \$800,000 = \$1,050,000 > \$420,000	

- Committee notification required

Reprogramming Example No. 3 (Operation and Maintenance):

a. PPA needs a third reprogramming action for \$1,200,000 to fully fund a contract. Previous reprogrammings include:

#1	+ \$3,000,000
#2	- <u>\$ 600,000</u>
	\$2,400,000

- FY 2008 Allocations:	\$20,000,000 (at least partially from JES table)
- Prior Unexpended Amount:	<u>\$ 300,000</u>
- FY 2008 Baseline:	\$20,300,000
- Reprogramming Limit:	\$ 3,045,000.

- Cumulative Amount = \$3,000,000 - \$600,000 + \$1,200,000 = \$3,600,000 > \$3,045,000

- Committee Notification NOT required for first or second actions because in both cases the cumulative amount did not exceed \$3,045,000. Committee notification required for third action.

APPENDIX F

Format for Approval To Award a Continuing Contract

Requests for approval to award continuing contracts shall be consistent with the format in the following example. Requests should be developed at the time of the Acquisition Plan and submitted 60 days prior to the proposed solicitation date.

BUSINESS CASE FOR USE OF CONTINUING CONTRACT

1. Description of the contract acquisition strategy. Provide a comprehensive multi-year acquisition plan with an overall description of the project to include the schedule for award, contract duration, and estimated cost for each year of construction. Include a description of the benefits that would be achieved through awarding the construction contract.

2. Contract Earnings and Expected Funding Stream.

a. Provide information on the funding stream by fiscal year for the contract.

b. Describe funding sources (i.e. included in PY appropriations, President's Budget request for PY+1, etc).

c. Describe likelihood of follow-on funding.

d. Describe cost growth risks and controls (material cost growth trends, recent bid climate, potential for changed conditions, opportunities value engineering savings, opportunities for technology driven savings, etc).

3. Evaluation of contract alternatives. The following information must be discussed in the evaluation of contract alternatives to determine if a continuing contract may be used. If the answer is "NO" to question a, and "YES" to questions b and c, a continuing contract may be recommended.

a. Is the amount available in FY 2008 sufficient to fully fund the contract?

b. Are the scope and schedule of the contract appropriate for the features of the project to construct? Provide analysis of various contracting options. Analysis should provide PROS and CONS for each option investigated. NOTE: Efficiencies and cost savings are NOT sufficient to support the use of a continuing contract. Use of a continuing contract must be based on the fact that the work cannot be accomplished through another contracting vehicle, and is in the best interest of the government. Contracting vehicles to be investigated should include, but not limited to:

- (1) Fully Funded Contract-
- (2) Multiple Fully Funded Contracts Awarded Sequentially
- (3) Delaying Contract Award until Sufficient Funding is available.
- (4) Fully Funded Contract with Base Bid, and Option(s)
- (5) Special Continuing Contract
- (6) Incrementally Funded Contract
- (7) True Continuing Contract

c. If the assessment of all relevant contracting options are impractical, it is determined that delay of the contract to FY09 or later would result in an unacceptable consequences (i.e. threat to life, etc.), and there are no funds identified for reprogramming to the project, a true continuing contract may be recommended.

4. Effective Management Controls on Contractor to Ensure Contractor Cannot Work In Advance in Excess of Funds Reserved on the Contract. Approval to award a True Continuing Contract does not obviate the legal restraint prohibiting USACE from allowing the Contractor to work in excess of the amount reserved to the contract. Thus, in requests for use of the true continuing contract Clause or for requests to use the special or incremental funding contract clause in a cost-reimbursable contract, the requestor shall describe the management controls to be put in place to ensure the contractor will not exceed the amount reserved to the contract.

5. Recommendation. Provide an overview of the recommendations and include a legal basis for the recommendation. Include a project funding table that highlights out-year project funding/budget requests to show funds that are programmed for a continuing contract.

APPENDIX G

Conditions and Approval Levels for Use of Contract Clauses

CONTRACT TYPE	DESCRIPTION OF CONTRACTING CLAUSE	CONDITIONS FOR APPROVAL	APPRV. LEVEL
Fully Funded	<ul style="list-style-type: none"> Funds are available to fully fund contract scope. 	<ul style="list-style-type: none"> Funding is available to reserve against entire contract scope 	District CDR
Options Contracts	<ul style="list-style-type: none"> Base bid is fully funded at award. Limited to useful increments of work (increment of work that produces benefits or outputs, and will remain in a safe condition) or navigation reaches. 	<ul style="list-style-type: none"> No expectation of continued funding beyond current fiscal year. 	District CDR
Special Continuing Contract Clause (EFARS Part 52.232-5003)	<ul style="list-style-type: none"> Contractor is not allowed to work beyond the amount reserved on the contract for the fiscal year. Expressly requires the contractor to stop working when funds are exhausted. Government is responsible for all costs pursuant to the termination for convenience clause regardless of the amount reserved on the contract in the fiscal year. Limited to contracts for which performance extends more than 3 months beyond current fiscal year, for which funding is provided or likely to be provided in out-year budgets and, for C account or C portion of MR&T account, that are over \$10M. 	<ul style="list-style-type: none"> Project funded under C or C portion of MR&T Accounts. Project funded under O&M or O&M portion of MR&T Accounts, where the project does NOT meet the 5 criteria identified in the CECW-IP memorandum, 1 May 06, subject: Continuing Contracts for Operation and Maintenance Work. Request for Approval (see Appendix F) has been submitted The contract is not funded from the Inland Waterways Trust fund. 	ASA(CW)
Special Continuing Contract Clause (EFARS Part 52.232-5003)	<ul style="list-style-type: none"> Contractor is not allowed to work beyond the amount reserved on the contract for the fiscal year. Expressly requires the contractor to stop working when funds are exhausted. Government is responsible for all costs pursuant to the termination for convenience clause regardless of the amount reserved on the contract in the fiscal year. Limited to contracts for which performance extends more than 3 months beyond current fiscal year, for which funding is provided or likely to be provided in the out-year budgets and, for C account or C portion of MR&T account, that are over \$10M. 	<ul style="list-style-type: none"> The project is funded under O&M & O&M portion of MR&T Accounts, where the project meets the 5 criteria identified in reference 4.d. Request for Approval (see Appendix F) has been submitted The contract is not funded from the Inland Waterways Trust fund. 	MSC CDR
True Continuing Contract Clause (EFARS 52.232.5001)	<ul style="list-style-type: none"> Permits the contractor to work beyond the amount reserved for the contract in the fiscal year. Government is legally liable to pay the contractor for such costs in violation of SEC 102 of the FY 08 E&WDAA. 	<ul style="list-style-type: none"> Request for Approval (see Appendix F) has been submitted The contract is not funded from the Inland Waterways Trust fund. 	ASA(CW)
Incrementally Funded Contract Clause (EFARS Part 52.232-5004)	<ul style="list-style-type: none"> Contractor is not allowed to work beyond the amount reserved on the contract for the fiscal year. Expressly requires the contractor to stop working when funds are exhausted. Government's liability for termination costs is limited to the amount reserved on the contract. Limited to contracts for which funding is not provided or is unlikely to be provided in out-year budgets. 	<ul style="list-style-type: none"> Funds reserved for the contract which are NOT for a useful increment of work (increment of work that produces benefits or outputs, and will remain in a safe condition) or navigation reach, or Will rely upon additional out year funding to implement. 	ASA(CW)
Incrementally Funded Contract Clause (EFARS Part 52.232-5004)	<ul style="list-style-type: none"> Contractor is not allowed to work beyond the amount reserved on the contract for the fiscal year. Expressly requires the contractor to stop working when funds are exhausted. Government's liability for termination costs is limited to the amount reserved on the contract. Limited to contracts for which funding is not provided or is unlikely to be provided in out-year budgets. 	<ul style="list-style-type: none"> Funds reserved for the contract are for a useful increment of work (increment of work that produces benefits or outputs, and will remain in a safe condition) or navigation reach, AND Does not rely upon additional out year funding to implement. 	District CDR

APPENDIX H

Execution Metrics Definitions

1. To determine whether USACE is meeting its commitments to customers, stakeholders, and the Congress, the following metrics will be used by HQUSACE to monitor corporate execution:

a. Milestones. Meeting commitments to customers and stakeholders means executing the program as appropriated and scheduled. Developing network schedules based on accurate activity durations and relationships (predecessor/successor/lead/lag) with milestones, and then measuring completion of milestones will be a key indicator for determining if HQUSACE is meeting its commitments. The USACE traditional method for measuring execution has been through lagging indicators such as contract awards. USACE will begin pairing and tracking the schedules of leading indicators such as Ready to Advertise with major milestones to better identify corrective actions the Project Delivery Team should use to better meet commitments. Through the development of accurate milestone schedules, USACE's ability to meet obligation and expenditure schedules is enhanced. The program execution metric will be a measurement of the accuracy of milestone execution. The number of scheduled milestone events Year-To-Date (YTD) (baseline) versus actual YTD, (Planned milestone date versus Actual milestone date in Primavera), will be tracked monthly for both major milestones and the leading indicator milestones. The Planned date can be Planned Start or Finish depending on what has been set for Milestone Type in Primavera. If a milestone is scheduled for a future FY but is accomplished in the current FY, the accomplishment will be counted in the current FY. On the other hand, planned milestones that are not accomplished within the current FY must be rescheduled in the next FY in order to be counted once the milestone is accomplished. Major milestones will be graded and reported quarterly at the Directorate Management Review (DMR) and the Command Management Review (CMR), and monthly at the HQUSACE CW Program Review Board (PRB). Reasons for slips and corrective actions will be discussed by the MSCs at the reviews if necessary.

The data fields that are used for the planned versus actual comparison come from the current approved schedules in Primavera, which are extracted into OFA for reporting. The baseline planned milestone dates in OFA will be established when HQUSACE takes a snapshot of the planned milestone dates from the Primavera current approved schedules on the "lock" date specified in the main portion of this EC. The actual accomplishment dates will be established in OFA on the 4th business day of each month using the actual dates in the Primavera current approved schedules. Data for the Program Reviews will be pulled from OFA on the 5th business day of each month. The milestone reports and slides that HQ will be pulling each month for the reviews are located in OFA – Civil Works, in the HQ PRB/CMR/DMR Reports Directory. The Milestone Trend graphs include DMR-18 to DMR – 24. DMR – 17S is the Milestone Statistics Rating (Summary) graph which provides the % variance from schedule by MSC for the major milestones with the current metric rating. The actual count of scheduled milestones versus actual milestones achieved is also displayed. DMR – 17P is the Milestone Statistics Rating (Project Detail) report which provides a listing of projects that are included in the count reflected on the trend graphs.

Paragraph 2 references the milestone guidance that was submitted via email, 14 December 2007 (this has changed some. See table in paragraph 3). A table of the selected major milestones and leading indicator milestones, as well as definitions and report parameters for the PRB/DMR/CMR reports is provided in paragraph 3. The metric for the major milestones is defined as follows:

Allowable Variance from Schedule (number planned versus number actual)

Green: $\geq -5\%$
Amber: $< -5\%, \geq -10\%$
Red: $< -10\%$

The Major Milestones and Leading Indicators are as follows:

Major Milestone	Leading Indicator
Recon Report Approval (CW170)	Start Recon (CW140)
FCSA Executed (CW130)	Recon Report Approval (CW170)
DE Transmittal Letter (CW260)	Feas Alternative Formulation Briefing (CW190)
Design Agreement Executed (CW130)	DE Transmittal Letter (CW260)
PCA Executed (CW130)	Submit PCA Package (CW080)
Contract Award (CC800)	RTA (CW400)
Notice of Project Completion (CW480)	No leading indicator

The Contract Award milestone (CC800) is now split into three separate milestones: Construction (CC800), A/E Services (CW801) and Other (CW802). **All existing Contract Award milestones which are for A/E Services must be changed from CC800 to CW801. All existing Contract Award milestones for contracts other than Construction and A/E Services must be changed from CC800 to CW802. Construction Contract Awards should remain as CC800. Similarly, the RTA (CW400) milestone, which is used as a Leading Indicator, is now also split into three separate milestones: Construction RTA (CW400), A/E Services RTA (CW401), and Other RTA (CW402). Existing RTA milestones for A/E Services and Other (non-Construction) contracts must be changed to CW401 and CW402 respectively.**

For purposes of the monthly and quarterly reviews, FY08 scheduled Construction Contract Awards in the C, MR&T, and O&M accounts will be tracked and measured. Note a change in the report parameters sent out in Gary Loew's 14 December 2007 email: The reports which display Contract Award and Contract RTA milestones will include milestones funded by all Category/Class/Subclass (CCS) under O&M rather than only CCS 121 as stated in the previous guidance

b. **Obligation Schedules.** The corporate metric for obligation schedules will measure the baseline schedule (scheduled obligations versus actual obligations) for the I, C, MR&T, O&M, REG, E, FUSRAP, and FCCE accounts. Successful program execution will be considered to be within a variance of greater than or equal to minus five percent scheduled versus actual at the account level. Trends should be assessed monthly by the MSC, and measured quarterly against the baseline. Corrective actions will be provided at the reviews if necessary. The metric for obligations is defined as follows:

Allowable Variance from Schedule (amount planned versus amount actual)

Green: $\geq -5\%$
Amber: $< -5\%, \geq -10\%$
Red: $< -10\%$

The data fields that are used for the planned versus actual comparison include the snapshot baseline in OFA of the Primavera current approved schedule (with OFA rounding and smoothing) and the 3011a actual amounts. The report that will be used each month for obligations is the HQ – FY2008 Historical 2101 D05 Report located in the HQ PRB/CMR/DMR Reports directory. This report is a snapshot of the data as of the end of the month. The snapshot will be done on the 4th business day of each month and will be used for the Program Reviews. This will ensure that the data being used for the reviews does not change. The trend graphs will include DMR – 03 to DMR – 10. DMR – 01 is the Obligations Rating Summary Report which provides the % variance and metric rating by MSC and Account. The fields being used for calculating the variance include the 2101 Historical Scheduled Obligations YTD (Basic) and the 2101 Historical CEFMS Actual Obligations YTD (3011A). The available amount is the 2101 Historical CEFMS Available to obligate (3011A).

c. Expenditure Schedules. The focus of measuring program expenditures will be used as an internal control to measure our ability to complete scheduled activities. The corporate metric for expenditure schedules will measure the baseline schedule (scheduled expenditures versus actual expenditures). Successful program execution will be considered to be within a variance of greater than or equal to minus five percent actual versus scheduled at the account level. This metric will not be reported at the reviews but may be used as back-up material when requested.

2. Milestone Guidance: Guidance forwarded via email by Mr. Gary Loew, Chief, Programs Integration Division, dated 14 December 2007.

3. Major Milestones and Leading Indicators with definitions and report parameters for PRB/DMR/CMR reports follow below. Please note that data for the reviews will be pulled on the 5th business day of each month.

MILESTONE CHART AND REPORT PARAMETERS									
PRB / DMR / CMR Chart No.	Milestone Name	Milestone Code	Type of Funds	WBS used for charts and reports	Remarks	CW Template WBS	WBS / Activity ID in CW Template	Milestone Description	Milestone Number in ER 5-7-1 (FR) 30 Sep 92
1	Start Recon	CW140	GI and MR&T Studies	21000 - Recon/Sec 905(B) Studies Rollup	Leading Indicator.	21T00	REC1050	This provides the start date for beginning the reconnaissance study for the project (initial obligation of funds) and signifies the major start of the Reconnaissance Phase of the Project.	040
1 and 2	Recon Report Approval	CW170	GI and MR&T Studies	21000 - Recon/Sec 905(B) Studies Rollup	Leading Indicator in chart 2.	21S00	REC1620	This provides the finish date of the final reconnaissance report and the document has been signed by the District Engineer.	050
2	Signed/Executed FCSA	CW130	GI and MR&T Studies	21V00 - FCSA		21V00	REC1720	This provides the finish date that the FCSA has been signed by both the cost share sponsors and the Federal Government.	060
3	Feas Alternative Formulation Briefing (AFB)	CW190	GI and MR&T Studies	22000 - Feasibility Studies Rollup	Leading Indicator.	22R00 (Milestone code showing is CW050 but this will be changed to CW190)	FEA2460	This provides the finish date that an approved memorandum is filed for the record immediately following the AFB. An AFB can be held more than once during the project life cycle, but normally occurs early in the Feasibility phase during formulation of alternatives.	130
3 and 4	Issue Feas Div Commander's Notice	CW260	GI and MR&T Studies	22000 - Feasibility Studies Rollup	Leading Indicator in chart 4	22S00	FEA2590	This provides the finish date of the Div Commander's Notice when it is signed and issued (Date of issue of Public Notice).	170
4	Design Agreement Executed	CW130	CG, IWTF, GI, and MR&T: Studies, Constr, and Supp	30DG0 - Design Agreement Executed	Excludes CAP.	30DG0	DEA3810	This provides the finish date that signifies the agreement is signed by both the project sponsor and the Federal Government.	No Corresponding Code
5	PCA Executed	CW130	CG, IWTF, MR&T: Constr and Supp	30APO - PCA Executed	Excludes CAP.	30APO	PCA5440	This provides the finish date that signifies the agreement is signed by both the project sponsor and the Federal Government.	690

5	Submit PCA Package	CW080	CG, IWTF, MR&T: Constr and Supp	30APO - Submit PCA Package	Leading Indicator. Excludes CAP.	30AP0	PCA5370	This provides the finish date signifying the submission of the final agreement package to the MSC for review and approval.	620
6	Contract RTA	CW400	CG, IWTF, O&M, MR&T: Constr, O&M, and Supp	30000 - Plan, Eng & Des (PE&D) Rollup, 60000 - Operations Rollup, and 61000 - Maintenance Rollup	Leading Indicator. Excludes CAP.	30DS0	CON500	The date the District meets all required approvals to advertise construction contract (may include but not limited to: BCO review and approval, acquisition of all LERRDs, final NEPA compliance documents and required funds available to obligate.	No Corresponding Code
6	Contract Award	CC800	CG, IWTF, O&M, MR&T: Constr, O&M, and Supp	30000 - Plan, Eng & Des (PE&D) Rollup, 60000 - Operations Rollup, and 61000 - Maintenance Rollup	Excludes CAP.	30DS0	CON590	This provides the finish date for the awarding of the contract.	960
7	Notice of Project Completion/ Assumption of OMRR&R	CW480	CG, IWTF, MR&T: Constr and Supp	30000 - Plan, Eng & Des (PE&D) Rollup	No leading indicator for this chart. Excludes CAP.	30F00	END6650	This provides the date that the District Engineer notifies the project sponsor in writing that the project is complete and furnishes the non-Federal sponsor with an interim or final OMRR&R manual. [see Article II.C.]"	999

APPENDIX I

Continuing Authorities Programs

1. Implementation of the FY 2008 CAP program is based on guidance contained in Appendix F, Amendment 2, dated 31 January 2007, of the Planning Guidance Notebook, ER 1105-2-100 (Reference 4.e.) and the following execution guidance:

a. Project Classification and Reclassification.

(1) Beginning in FY 2008, CAP project status will be classified using six codes:

(a) Unstarted. Unstarted means no funds have been provided to the project previously.

(b) Active. Includes formerly Suspended projects that are reaffirmed in the current fiscal year (CFY), CFY-1, or CFY-2.

(c) Suspended. Suspended projects are not eligible for funding or for execution of an agreement. Suspended projects ultimately are either reaffirmed or terminated (financially closed out).

(d) Converted to a study in Investigations account.

(e) Terminated. Includes formerly Suspended projects that were not reaffirmed.

(f) Completed. Physically completed and fiscally closed out.

(2) Process for Suspension, Termination, and Reaffirmation. CECW-I will administer the following process for suspending and either terminating or reaffirming projects.

(a) A project that has not been named or funded in any year CFY-6 through CFY is automatically suspended at the beginning of the CFY, unless it was reaffirmed in CFY-1 or CFY-2.

(b) After initial allocations, a project last named or funded in any year CFY-6 through CFY-3 is suspended, unless it has an executed or authorized agreement for the applicable phase or has been reaffirmed in the CFY, CFY-1, or CFY-2. Projects named in any year CFY-2 through CFY are not eligible for suspension.

(c) CECW-I provides a list of suspended projects to the MSCs and Districts. For each CAP project, the District asks the project Non-Federal Sponsor to reaffirm support/capability for a Suspended project in writing. See the sample letter at the end of this Appendix. The sample has variants to cover projects at different stages of development.

(d) If the project Non-Federal Sponsor does not reaffirm support/capability in a reasonable period of time, the District notifies the offices of the affected Members of the status and pending termination of the project. This notification need not be in writing. For FY 2008, affected Members should be notified of any Suspended CAP project for which reaffirmation is not received by 30 April 2008.

(e) If the project is not reaffirmed within 30 days after Member notification (for FY 2008, by 30 May 2008), the MSC will recommend to Terminate (fiscally close out) the project or will explain why more time is needed. Any recommendation to terminate a project that has been specifically authorized or modified by statute should be discussed in advance with CECW-I, and termination would not be construed as deauthorization. In the case of any project recommended for Termination, CECW-I will notify the Appropriations Committees of USACE's intent to Terminate. Thereafter, CECW-I and the MSC will determine when to initiate Termination.

(f) If the project is reaffirmed, it becomes Active through CFY+2 (or longer if named or funded).

b. Decisions on Project Funding and on Authorization to Execute New Agreements. CECW-I will coordinate decisions on the funding of projects with decisions on authorizations to execute new agreements. No CAP agreement (FCSA or Project Partnership Agreement) will be executed without specific authorization from CECW-I. MSCs will be notified by CECW-I of the projects for which execution of the agreement has been authorized. Thereafter, each authorized agreement will be reviewed, approved, and executed in accordance with current policies and practices (see Appendix F, Amendment No. 2, of reference 4.e.). **Each authorization to execute an agreement lapses if the agreement is not executed by the last day of the CFY.** Projects for which authorization to execute an agreement has lapsed will be addressed on a case-by-case basis.

(1) Decisions on project funding and agreements will be made in a step-wise fashion for each CAP authority, as follows.

(a) Cover Approved CRA Allotments.

(b) Fund CFY Named Projects with Specified Amounts in the Amount Specified, plus Coordination/Management. CFY named projects are those identified in the CAP tables in the Conference Report / Statement of Managers for the CFY.

(c) Authorize New Agreements for Phases That Are Fully Funded. CFY specified amounts are included in the assessment of full funding. Note that after these authorizations, MSCs may request authorizations at any time for additional phases that are found to have been fully funded. Each authorization to execute an agreement will lapse if the agreement is not executed by the last day of the CFY.

(d) Provide Funds for Phases of CFY Named Projects That Are Covered by Already-Executed Agreements. With remaining funds, if any, in each CAP program, CECW-I provides funds for useful increments of work (but no less than the specified amounts, for projects with specified amounts) for CFY named projects that have already-executed agreements. If possible, all such projects in each CAP program are funded at the capability level. If not, the projects are ranked according to outputs (i.e. performance, including urgency for section 14 projects). If remaining funds are limited, not all projects are funded.

(e) Fund, and Authorize Execution of New Agreements for, Already-Funded Phases of CFY Named Projects Meeting Criteria. Already-funded phases include phases that received specified amounts in the CFY. Criteria are:

(1) Non-Federal Sponsor-Supported: The project has a willing and capable Non-Federal Sponsor. For FY 2008, this will be assumed if the project has a capability, AND

(2) Ready: The agreement can be executed in the CFY if the project is funded. Assessment of readiness is based on the agreement date in the CAP data, AND

(3) Affordable over 5 Years: If every project already funded under this step received uninterrupted capability-level funding in the out-years until completion, and if funds for the applicable CAP program were constant over 5 years, there also would be enough funds available, both in the CFY and at the capability level in the out-years, to fund the project without interruption.

With remaining funds, if any, in each CAP program, CECW-I identifies funds (but no less than the CFY specified amounts, if any) for CFY named projects that meet the criteria. If possible, funds are identified at the capability level for all such projects in each CAP program; otherwise, the projects are ranked according to a combination of outputs and phase percent complete (based on prior FY allocations and CFY specified amounts), and funds are identified for useful increments of work. Funds may not be identified for all projects. CECW-I authorizes execution of agreements for those projects for which CFY

funds have been identified and for which cumulative funding identified, including the CFY funds identified, exceeds \$100,000 for feasibility or \$50,000 for D&I. However, these thresholds do not apply to Section 206 and 1135 projects with feasibility work already under way as of 31 January 2006, and to projects with design work continuously funded since 31 January 2006. Funds (except for amounts specified for CFY named projects) that are identified for a project over the applicable threshold are reserved until after execution of the agreement, in accordance with Reference 4.e. **Each authorization to execute an agreement and the reservation of funds for the applicable project lapses if the agreement is not executed by the last day of the CFY.** The aforesaid notwithstanding, no agreement will be authorized, nor funding provided, for a section 205, 206, or 1135 project that has not been named or funded in any year CFY-6 through CFY, even if reaffirmed.

(f) Provide Additional Funds for Already-Funded Phases of Other CFY Named Projects. Already-funded phases include phases that received specified amounts in the CFY. With remaining funds, if any, in each CAP program, CECW-I may provide up to \$100,000 cumulative for feasibility or up to \$50,000 cumulative for D&I. However, additional funds, up to the capability level, are provided, if available, to Section 206 and 1135 projects to finance feasibility work already under way as of 31 January 2006, and to finance design work continuously funded since 31 January 2006. If remaining funds are limited, projects are ranked according to outputs, and not all projects may be funded.

(g) Fund New Phases of CFY Named Projects without Specified Amounts. With remaining funds, if any, in each CAP program, CECW-I may provide up to \$100,000 for feasibility for previously Unstarted projects, and up to \$50,000 for previously unfunded D&I phases. If remaining funds are limited, projects are ranked according to outputs, and not all projects may be funded. Notwithstanding the aforesaid, no section 205, 206, or 1135 projects (feasibility phase) that have not been named or funded in any year CFY-6 through CFY will be funded.

(h) Follow Steps d., e., f., and g. for Projects Not Named in the CFY.

2. CECW-I will coordinate with the Appropriations Committees prior to funding, or authorizing an agreement for, any section 205, 206, or 1135 project that was started mistakenly in FY 2006 or 2007 (that is, was started in FY 2006 or 2007 although the project had not been named in the Conference Report or Statement of Managers for FY 2001 through FY 2006), or that had been Suspended but has not been funded since reaffirmation (other than those identified in paragraph c.2.f.).

c. Reprogramming.

(1) Because the amount of funds for each CAP Authority is specified in law for FY 2008, USACE is prohibited by law from reprogramming funds into or out of the various Continuing Authorities Programs.

(2) In accordance with the general provisions of this EC, each CAP program is a PPA, and each CAP project is a PPA. Movement of funds to or from one of these projects is a reprogramming. **Any proposed reprogramming to a CAP project to which no funds were allocated or sub-allocated in FY 2008 requires CECW-I approval and may require coordination with the Appropriations Committees.** Other generally applicable restrictions on reprogramming apply. See paragraph 8.c. (especially paragraph 8.c.(3)(b)(3)) and Appendix B of this EC.

(3) In addition, the following restrictions apply to CAP projects.

(a) Funds may not be reprogrammed from a project if the project was named, and the funds were specified, in the CFY, CFY-1, or CFY-2. In addition, Divisions may not reprogram funds that were specified in FY 2006 until FY 2011.

(b) Funds may not be reprogrammed to a project that is Unstarted, other than a project that was named in the CFY.

(c) Funds may not be reprogrammed to a Suspended project except for the purposes of fiscal close out.

(d) Without the approval of CECW-I, funds may not be reprogrammed to a project that was started mistakenly in FY 2006 or 2007, unless it subsequently was named.

(e) Without approval from CECW-I, funds may not be reprogrammed to a CAP Coordination account.

(f) Funds may not be allocated or reprogrammed to a section 205, 206, or 1135 project that or has not been named or funded in any year CFY-6 through CFY, even if reaffirmed.

d. Contracting. Continuing contracts and incrementally funded contracts will not be used for the Continuing Authorities Program. All CAP contracts will be fully funded.

2. ER 1105-2-100, Appendix F, Amendment #2, 31 Jan 2007 will be updated in the future to reflect the above guidance.

SAMPLE LETTER OF REAFFIRMATION

[Date]

Dear Colonel Smith,

This is to reaffirm the support of the Town of Anytown, USA, for the Anytown Levee Project, Texas. **[Choose one of the five following paragraphs, depending on the stage of project development:** (1) The Town of Anytown is willing and has the financial capability to execute a feasibility cost sharing agreement for the Project, and a project partnership agreement for the Project should the project report be approved. (2) The Town of Anytown will continue to carry out its obligations under the executed feasibility cost sharing agreement, and is willing and has the financial capability to execute a project partnership agreement for the Project should the project report be approved. (3) The Town of Anytown is willing and has the financial capability to execute a project partnership agreement for the Project should the project report be approved. (4) The Town of Anytown is willing and has the financial capability to execute a project partnership agreement for the Project. (5) The Town of Anytown will continue to carry out its obligations under the executed project partnership agreement.] The Town understands that under the project partnership agreement it will be responsible for sharing in the costs of the Project, acquiring necessary real estate interests, and performing necessary operation, maintenance, repair, rehabilitation, and replacement of the Project.

Sincerely,

[Name of Elected or Appointed Official]
Town of Anytown

APPENDIX J

Expenses Program Execution Guidance

1. **General.** The Expenses Program appropriation funds general administration and Executive Direction and Management (ED&M) functions of the Civil Works (CW) Program conducted by Headquarters U.S. Army Corps of Engineers (HQUSACE), Major Subordinate Commands (MSCs) and the six Field Operating Activities (FOAs) providing direct support to those functions. ED&M functions include command and control; development, coordination and issuance of policy; program management in developing, defending and executing all major USACE programs; national and regional level coordination with elements of the Administration, Congress and other agencies and national stakeholders; and quality assurance to ensure that the Civil Works Program is being executed in accordance with law, policy and regulation. The FY 08 Energy and Water Development Appropriations Act (E&WDA) prohibits the use of any other appropriation provided in Title I of the Act to fund Civil Works activities of the headquarters or the Civil Works ED&M activities of the division offices. In addition, none of the Expenses funds will be used to implement any pending or future competitive sourcing action under OMB Circular A-76 or High Performing Organizations for the U.S. Army Corps of Engineers.
2. **Execution.** The appropriation level of the Expenses account has been suppressed for a number of years and continues to remain at a level that is insufficient to fund manpower at the prescribed 2012 level. However, recent execution of the program would appear to indicate a need for greater management control of the limited Expenses appropriation. Manpower usage appears to be on a downward spiral. Since the Expenses account is nearly 70% labor, management attention will be directed to the use of labor dollars in FY 2008. The language accompanying the FY 2008 E&WDA identified an increase in Expenses appropriation to allow the headquarters to hire additional personnel. The allocation of Expenses funds will accommodate this language.
 - a. **Scheduling Expenses Funds.** All Expenses funds provided to an organizational element through work allowances are to be scheduled for obligation in FY 08. The obligation schedule is to be reflected in P2. The Director of Civil Works will utilize these schedules in the Directorate Management Reviews (DMR) and Command Management Reviews (CMR) to evaluate the effectiveness of the management of the Expenses Program.
 - b. **Work Allowances.** As with all other Civil Works programs, Expenses will receive work allowances in P2. The work allowance along with the Funding Authorization Document (FAD) provides the authorization and appropriation to carry out Civil Works ED&M activities. The FY 2008 Expenses program labor will be issued separately from "other" Expenses dollars. At a minimum, obligation schedules are to be reflective of labor and other. Labor savings will no longer be available to purchase non-labor items. Labor must be shown as labor in the financial records. Only labor cross charges will be authorized. Any USACE employee can be detailed to HQ via labor cross charge. Program Accounts will also be issued via a work allowance and FAD.
 - c. **Reallocation.** Reallocation of Expenses funds is limited to Headquarters. Once Expenses funds have been issued as Labor, Other, or Program Account only Headquarters has the authority to reallocate.
 - d. **Program Performance.** The Director of Civil Works will review the performance of the Expenses account actual obligations against the scheduled on a monthly basis corresponding with the appropriate end of the pay period, with particular emphasis on the labor. Reviews during DMRs will also be undertaken based on the appropriate end of pay period corresponding to the quarterly review and reported at the CMR. In conjunction with the Director of Military Programs and the Director Resource Management, HQUSACE may reallocate funds based on the slippage in the program.

APPENDIX K

Flood Control and Coastal Emergencies Execution Guidance

1. The Flood Control and Coastal Emergencies (FCCE) program includes responsibility for disaster preparedness, emergency operations, rehabilitation of flood control works, provision of emergency water, advance measures when the threat of flooding is imminent, and participation in the hazard mitigation program.
2. The FY 2008 E&WDAA provided no appropriations for the FCCE program. As a result, there are no new appropriated funds available for preparedness activities for the remainder of FY 2008. Unallocated funds from the FY07 5th Supplemental will be used for preparedness activities in the 3rd and 4th quarters of FY 2008. Preparedness activities include personnel salaries, and emergency facilities; the review and updating of response plans based on lessons learned from recent disasters; training of personnel and teams to develop critical skills; procurement and pre-positioning of critical supplies and equipment which likely would be otherwise unavailable during the initial response stages; periodic exercises to test and evaluate plans, personnel, and training; inspection of non-Federal flood control projects to ensure their viability to provide flood protection and assess their eligibility for post-flood rehabilitation; laboratory support for field operations; and liaison with state and local governments and agencies. Specifically, available funds will be used to fund 3rd and 4th quarter emergency management employees salaries and facility costs; conduct scheduled inspections of non-federal flood damage reductions projects; perform critical emergency response training; award and maintain necessary emergency contracts for debris, power, water, roofing and ice; and operate and maintain emergency information systems (EngLink) and Deployable Tactical Operation Systems (DTOS). Funding for the following response activities will be provided based availability of funds: project investigations & rehabilitations; advance measures activities; and emergency water assistance activities. These activities will be prioritized and funded if funding becomes available.
3. Programmed Schedule. Obligation and expenditure schedules are to be developed in P2 by 29 Feb 2008. These P2/OFA obligation and expenditure schedules will be the baseline schedules for measuring FY 2008 execution. Follow the guidance detailed in the main body of this guidance document. To maintain the most critical elements of this program, a funding strategy that establishes a priority for future FCCE execution will be developed to maximize program efficiency and effectiveness, HQUSACE will follow this strategy:
 - a. HQUSACE will undertake necessary measures to ensure emergency operations activities in the field, such as flood response and EOC activations, can be performed during the FY 2008 spring flood and hurricane seasons.
 - b. CECW-HS and CECW-IN will perform a review of un-obligated FCCE funds with the MSC and revoke excess un-obligated funds for use on unfunded requirements. Project rehabilitations funded by the FY06 3rd, 4th and 5th supplemental appropriations will continue for the hurricane protection systems and projects in SE Louisiana, the Gulf Coast region and Pennsylvania. Additionally, other projects currently funded for E&D or construction will continue.
 - c. CECW-HS will prioritize rehabilitation projects and provide funding for investigation, E&D and construction based on the project priority and funds available. It is anticipated that additional funding for project rehabilitations in FY 2008 will be dependent on receiving supplemental appropriations. The following ranking criteria will be used to determine project rehabilitation priorities:
 - (1) Populations and improved property protected by the damaged FCW:
 - (a) Urban projects protecting populated urban areas.
 - (b) Rural projects protecting rural communities

(c) Projects protecting agriculture only areas

(2) Severity of existing project damages:

(a) Category A - Projects that have been breached or have failed

(b) Category B - Projects with major erosion, slumping or seepage damage that could result in project failure during the next flood event.

(c) Category C - Projects with minor erosion, slumping or seepage damage that will not result in project failure during the next flood event.

d. Funding for Continuing Eligibility Inspections and Initial Eligibility Inspections of non-federal FCW will continue in order to maintain continuity in the inspection program and visibility of local sponsor O&M activities.

e. Funding for preparation of Project Investigation Reports (PIR) for project rehabilitation will continue, if funds are available, in order to identify, validate, and prioritize new requirements. As of this guidance all existing investigation requirements have been funded.

f. Funding for advance measures and emergency water assistance activities will be limited to technical assistance.

4. Programmed Carryover. Follow the guidance detailed in the main body of this guidance document.

5. Work Allowances. Follow the guidance detailed in the main body of this guidance document.

Without additional funding to address the current shortfall for project rehabilitations and other non-preparedness activities, funding will not be sufficient to fund all activities under this program in FY 2008 and will require continued restrictions. HQ requests that commanders take the necessary actions to ensure that the FCCE program is executed according to the above strategy in coordination with HQ staff and inform appropriate public sponsors of these funding limitations. Each emergency response situation will be addressed on a case-by-case basis until further notice. If necessary, a request for the transfer of funds from other accounts will be initiated.

APPENDIX L

Formerly Utilized Sites Remedial Action Program (FUSRAP)

1. The purpose of this document is to provide guidance on the execution of the FUSRAP program. The objective of FUSRAP is to identify, evaluate, and remediate sites with radioactive contamination resulting from Manhattan Engineering District (MED) and Atomic Energy Commission (AEC) activities. USACE uses three outcome performance measures to indicate progress meeting this objective:

- a. Minimize risk to human health and the environment
- b. Maximize the cubic yardage of contaminated material disposed in a safe and legal disposal facility; and
- c. Return the maximum number of affected individual properties to beneficial use.

The appropriation for FY 2008 is \$140,000,000.

The direction provided in this document is in accordance with the direction from Congress instructing USACE to prioritize sites that are nearing completion and to initiate cleanup expeditiously for the Sylvania Corning Plant site.

2. Programmed Schedule. Obligation and expenditure schedules are to be developed in P2/OFA by 29 Feb 2008. These P2/OFA obligation and expenditure schedules will be the baseline schedules for measuring FY 2008 execution. Follow the guidance detailed in the main body of this guidance document.

3. Programmed Carryover. Carryover that is scheduled for business reasons includes funds obligated on fully funded contracts, real estate actions, etc. that are not scheduled to be completed until FY09 or later.

4. Work Allowances. Follow the guidance detailed in the main body of this guidance document. Work allowances will be provided based on the funding information provided in the FY 2008 Justification Sheets.

5. Execution Metrics. With emphasis on producing products and providing services on time, a project baseline shall be created in Primavera Project Manager at the same time that the obligation and expenditure baseline is created in OFA to allow for comparison of work scheduled versus work performed. This will be the baseline schedule as of 29 Feb 2008. Baseline schedules will be compared to actual execution each month as a measure of USACE's ability to plan and execute work. To determine whether USACE is meeting its commitments to customers, stakeholders, and the Congress, the following metrics/performance measures will be used by HQUSACE to monitor program execution:

Six performance measures listed below serve as indicators to assist in monitoring progress in meeting the program objective. These measures are listed in OFA. Districts are to schedule in P2/OFA the completion of these measures as appropriate. The indicators are:

a. **Number of records of decision (ROD) signed.** As studies are completed and best alternatives for cleanup activities are decided, the number of RODs will increase. A final ROD establishes the final cleanup standard, which controls the actual estimate of the remaining environmental liability for each site.

b. **Number of Remedial Investigations (RI) completed.** The RI establishes the baseline risk assessment whereby the level of risk to human health and the environment is identified.

c. **Number of action memorandums signed.** Where warranted by risk or other limited factors, action memorandums allow USACE to move toward reducing risk more rapidly than through production of a ROD. No action memorandums are presently identified.

c. **Cubic yardage of contaminated material disposed.** Target soil amounts are dependent on previous year funding and scheduled activities.

d. **Individual properties returned to beneficial use.**

e. **Number of remedies in place or response complete.** As select portions of sites or complete sites meet their remedial action goals, the risk to human health and the environment is reduced to within acceptable levels and properties are able to be used within a community without fear of increasing cancer risk or further degrading the environment.

6. **Reprogramming Limits.** Section 101 (a) (10) establishes legal limits restricting reprogramming authority. The baseline is defined as the unexpended carry-in funds plus the new allocated FY 2008 funds. For FUSRAP, the following reprogramming restriction applies: **reprogramming is restricted to up to 15 percent of the baseline of the receiving project.**

Example: Project 1 has received \$10M in FY 2008 appropriated funds and has \$500K in unexpended FY07 funds. Project 2 has received \$250,000 in FY 08 appropriated funds and carried over \$50K in unexpended FY07 funds. During the 4th quarter additional needs are identified at Project 2 and excess funds are available at Project 1. Under the FY 2008 reprogramming rule, Project 2 can receive only \$45,000 (\$300,000 x 15%) without prior notification to the Committees being required.

Note: Districts shall notify Division and HQ (CECW-IN) by email of **all** reprogramming and/or reallocation actions prior to the initiation of the movement of funds in P2/OFA.

APPENDIX M

Regulatory Program Execution Guidance

1. The purpose of this document is to provide guidance on the execution of the Regulatory program. USACE's regulatory program mission is to protect aquatic resources while allowing necessary, sustainable development. USACE's jurisdiction extends to the navigable waters, their tributaries, and adjacent wetlands. USACE uses three program goals to indicate progress meeting this objective.

- a. No Net Loss of Aquatic Resources.
- b. Avoidance and Minimization of Impacts to Aquatic Resources
- c. Expedite Permit Processing

The appropriation for FY 2008 is \$180,000,000.

2. Programmed Schedule. Obligation and expenditure schedules are to be developed in P2 by **29 Feb 2008**. These P2 obligation and expenditure schedules will be the baseline schedules for measuring FY 2008 execution. Follow the guidance detailed in the main body of this Circular.

3. Programmed Carryover. Carryover that is scheduled for business reasons includes funds obligated on fully funded contracts, real estate actions, etc. that are not scheduled to be completed until FY09 or later.

4. Work Allowances. Follow the guidance detailed in the main body of this Circular.

5. Execution Metrics. With emphasis on linking performance with budget levels, obligation and expenditure baselines will be created in P2. Budget execution will be compared with the eight performance measures listed below to allow for confirmation that Districts are executing to meet all performance goals. The Regulatory Program goals and performance measures were developed through a collaborative process through the OMB Program Analysis and Review Tool (PART). These performance measure targets are an important aspect of measuring program performance and adequate levels of funding. They have been included in the Command Monitoring Requirements (CMR) to track performance and to continue to analyze the link between District execution for each measure, District budgets, and workload. Districts and Divisions are required to report performance for each of these performance measures each quarter, through the CMR chain, it is understood that the achievement of District performance and accuracy of these numbers will vary due to several factors beyond their control the most critical of these factors being implementation of the Program under the joint USACE/EPA Carabell-Rapanos guidance memorandum issued on June 5, 2007 in response to the Supreme Court decision. While the difficulties and workload implications of this guidance are understood, HQUSACE expects accurate performance numbers as ORM-2 is now installed in all Districts and reports are now available. To reduce workload in the field, Headquarters will be running these reports at the national level. HQUSACE will be providing all Districts and Divisions a 10 day period before the performance reports are run to insure all data is up to date.

For FY 08, Districts have received funding based on a \$180 million Congressional appropriation for the national Regulatory program. While this includes an increase to help with implementing the Carabell-Rapanos guidance, Districts must still manage their Regulatory Program budget carefully to ensure labor for all on-board staff is covered. The funds allocated for FY 08 do not take into account locality pay increases or increases associated with individual performance and other increases in the costs of doing business. To address these concerns, HQUSACE has maintained the FY 07 target levels of performance. To determine whether if USACE is meeting its commitments to customers, stakeholders, and the Congress, the following eight performance measures will be used by HQUSACE to monitor program execution:

Measure	FY 2008 Performance Targets
1. Individual Permit Compliance USACE shall complete compliance inspections on XX% of all Individual Permits issued and constructed within the preceding fiscal year.	10%
2. General Permit Compliance. USACE shall complete compliance inspections of XX% of all General Permits (GPs and NWP) with reporting requirements issued and constructed within the preceding fiscal year	5%
3. Mitigation Site Compliance USACE shall complete field compliance inspections of XX% of active mitigation sites each fiscal year. Active mitigation sites are those sites authorized through the permit process and are being monitored as part of the permit process but have not met final approval under the permit special conditions (success criteria).	5%
4. Mitigation Bank/In Lieu-Fee Compliance USACE shall complete compliance inspections/audits on XX% of active mitigation banks and in lieu fee programs annually.	20%
5. Resolution of Non-compliance Issues. USACE will reach resolution on non-compliance with permit conditions and/or mitigation requirements on XX% of activities determined to be non-compliant at the end of the previous fiscal year and determined to be non-compliant during the current fiscal year.	20%
6. Resolution of Enforcement Actions. USACE shall reach resolution on XX% of all pending enforcement actions (i.e., unauthorized activities) that are unresolved at the end of the previous fiscal year and have been received during the current fiscal year.	20%
7. General Permit Decisions. USACE shall reach permit decisions on XX% of all General Permit applications within 60 days.	75%
8. Individual Permits. USACE shall reach permit decisions on XX% of all Standard permits and Letters of Permission (LOPs) within 120 days. This standard shall not include Individual Permits with Formal Endangered Species Act (ESA) consultations	50%

6. Reprogramming Limits. In addition to the guidance provided in the main body of this document, reprogramming of Regulatory funds between program categories is not authorized without Headquarters approval.

7. Obligation Schedule and Fund Distribution: Funds are distributed to each District based on an allocation formula which considers factors including number of each type of permit, number of FTE's, acres of wetlands, miles of streams, projected population growth, number of endangered species and essential fish habitat consultations, number of mitigation banks. Some funds have been retained at HQUSACE for potential litigation, improvements to ORM-2 (including on-line permit application), and emerging requirements during the year. Regulatory chiefs are expected to budget the funds to avoid furloughs and conform to the above performance measures. Divisions should not expect to receive additional funds from HQUSACE to cover normal operating expenses near the end of the year.

APPENDIX N

Use of Program Code in P2

1. The purpose of this guidance is to mandate the entry of a value in the Program Code data field in P2 for all Approved Civil Works projects. This guidance supersedes guidance previously provided concerning use of Program Code for Civil Works projects. In order to properly manage the Civil Works program we must be able to correlate projects entered in P2 with line items contained in Congressional Appropriation bills, reports and acts. The need to properly and uniquely identify and track projects was recently reinforced by Title II, section 2041 in WRDA 2007.
2. We will use the Program Code field to store the Congressional line-item identifier. The associated Program Code Description field will contain the "official" project name as shown in the authorizing legislation. The Program Code is a project level code which is entered in Oracle Projects (OP). Only those Program Codes which are on the list of valid values in OP can be selected. A P2 project can be associated with only one Program Code.
3. In our legacy systems USACE generally identifies Congressional line items with a number which is named AMSCO in CEFMS and CWIS/PWI in PRISM. (Note that CEFMS also contains a data field named PWI (Project Work Item) which is a separate number and is not addressed by this guidance.) Funds have historically been budgeted and allocated within USACE using the AMSCO/CWIS/PWI number. All P2 projects that are associated with an historic AMSCO/CWIS/PWI should populate the Program Code field in Oracle Projects with this historic AMSCO/CWIS/PWI number. Projects that are initiated in P2 and are not associated with an historic AMSCO/CWIS/PWI project (i.e. new projects), will also need a Program Code assigned. The new Program Code will be the same as the P2 Project Number for the new project. Once HQUSACE has added the new Program Code to the list of valid Program Code values in OP, as discussed in paragraph 4 below, the District/Lab/Center will need to enter the Program Code in Oracle Projects in the Program Code field. If there are multiple P2 projects that are budgeted and funded as one Congressional line item, and that line item is not associated with a historic AMSCO/CWIS/PWI, then the P2 Project Number of the first P2 project established for the Congressional line item, or the "parent" project, if any, will be added to the list of valid Program Codes, and entered as the Program Code in Oracle Projects for this project and all subsequent associated P2 Projects. The number entered in the Program Code field should be the same number used as the AMSCO in CEFMS.
4. If a Program Code needs to be added to the list of valid values in OP (as discussed above), or if a Program Code name needs to be changed, Districts should submit the request to their MSC Programs office for review. The MSC will then forward the request to Karl Nilson (CECW-IN) and William Caldwell (CECW-IP) at HQUSACE. Include the proposed Program Code number (typically the P2 Number for new projects) and name. The name should be the "official" project name as shown in authorizing legislation. Note that for new projects, users must continue the current practice of contacting the Finance Center to request that the number be added to the list of valid AMSCO values in CEFMS. The Civil Works P2 team will investigate possible enhancements to make this process more automated in the future.
5. There are some cases where the same historic AMSCO/CWIS/PWI was inadvertently assigned to different projects in more than one EROC. Since the Program Code is a unique USACE wide identifier, only one project may use the historic AMSCO/CWIS/PWI as the Program Code and a new Program Code will need to be established for the other project(s). Report these cases, and other special cases where there is a question concerning the application of this guidance, to HQUSACE through the MSC Programs office. If the Program Code assigned to a project must be different than the historic AMSCO/CWIS/PWI previously used for the project, be sure to enter the historic AMSCO/CWIS/PWI in the Legacy Project Number data field in OP so that historic data can be associated with the new Program Code.
6. When a new nationwide HQUSACE-budgeted "remaining item" needs to be established, HQUSACE will create a P2 project for the purpose of establishing an identifying number, and will have that number and name added to the list of values in OP. This HQUSACE-established value should be used as the

Program Code and AMSCO for all associated P2 projects created in the Districts/Labs/Centers which will receive funding for the item.

7. Many CAP projects currently use the Program Code to identify the CAP Section (as previously directed by HQUSACE), but the Section can also be determined from the Primary Business Program and/or Type of Funds (Appro Dept/Symbol/CCS). The CAP Section identifiers will be removed from the list of valid Program Code values in OP. As part of the CAP transition from PRISM to P2, HQUSACE will ensure that the list of valid Program Code values in OP includes all current PRISM CWIS/PWI numbers and names for CAP projects. When HQUSACE completes the update of the list of valid values, users should assign the AMSCO/CWIS/PWI as the Program Code on each of their CAP projects in P2. New CAP projects not associated with historic AMSCO/CWIS/PWI numbers will also need Program Codes created and assigned as discussed above.

8. The OFA-CW Work Allowance data entry forms will be revised to require that a valid Program Code must exist on each project within an FY08 reallocation or reprogramming transaction. Additionally, an OFA report will be created to report P2 Projects that either do not have a Program Code entered or are using a Program Code that is no longer valid. Each MSC/District/Lab/Center should use this report to find and correct any Program Code inaccuracies.

9. Within OFA-CW, the Project dimension contains two hierarchical views that utilize the Program Code. These views are named "Program Code View" and "EROC/Program Code View". These views can be used to produce reports organized by Program Code, with the capability to drill down to the individual P2 project(s) within each Program Code. Projects that have not yet been assigned a Program Code are listed under "N/A". Each MSC/District/Lab/Center should run data quality reports to find and correct instances of "N/A" Program Codes, and assure that every Approved P2 Project has an assigned, valid Program Code. Currently most OFA-CW reports do not utilize the Program Code views as the default, but users can select those views with the Select Data tool. When the list of projects without a Program Code is sufficiently reduced, the CW P2 team plans to revise many of the OFA reports so that one of the Program Code views will be the default view within the Project dimension.

10. Points of contact for this guidance are Karl Nilson (202-761-4215) and Bill Caldwell (202-761-4094).

APPENDIX O

P2 Transaction Types for FY 2008

P2 transaction types and codes are modified for FY 2008, as shown below, to facilitate proper approvals and reporting. Changes include the creation of the ALL, REC, RLC, and SUB codes. In addition, the REP and CGR codes describe movement of funds either into or out of projects, and the REV code is reserved for HQ use.

Updated guidance will be available in March 2008 at the Training tab in the PMBP Portal.

Also see Appendix A.

CODE	TYPE	DESCRIPTION
ALL	ALLOCATION - OTHER	HQ use only. Allocation through a work allowance of previously unallocated funds, other than C, ALW, or SUP.
ALW	ALLOCATE H (WITHHELD C)	HQ use only. Allocation through a work allowance of withheld Conference funds.
C	CONFERENCE	HQ use only. Conference amount (or amount in Joint Explanatory Statement or Statement of Managers).
CGR	REPROGRAM - CONGRESSIONAL	A movement of previously allocated or sub-allocated funds to or from a PPA, requiring prior Congressional notification (exceeds thresholds)
H	WITHOLD C (CONFERENCE)	HQ use only. Withholding of all or portion of Conference amount
O	OTHER	HQ use only. Includes corrections.
REC	RECONCILIATION	A movement of previously allocated or sub-allocated funds to or from a PPA, P2 Program Code, or P2 Project to reconcile allocations and sub-allocations with allotments under a CRA.
REP	REPROGRAM – OTHER	A movement of previously allocated or sub-allocated funds to or from a PPA, not requiring Congressional notification (does not exceed thresholds).
RES	RESCISSION	HQ use only. Rescission deductions.
REV	REVOICATION	HQ use only. Revocation by HQ of previously allocated or sub-allocated funds that does not qualify as REP, RLC, or CGR.
RLC	REALLOCATION	A movement of previously allocated or sub-allocated funds that is within a PPA and not into or out of a PPA.
SUB	SUBALLOCATION	Sub-allocation through a work allowance of allocated funds (ALL, ALW, C, or SUP) to a P2 Project within a P2 Program Code.
SUP	ALLOCATE SUPPLEMENTAL	HQ use only. Allocation of supplemental funds.