

<p>CECW-P/ CECW-B</p> <p>Engineer Circular 1105-2-217</p>	<p>Department of the Army U.S. Army Corps of Engineers Washington, DC 20314-1000</p>	<p>EC 1105-2-217</p> <p>30 November 1999</p>
	<p>EXPIRES 31 DECEMBER 2001</p> <p>Planning</p> <p>THE CONTINUING AUTHORITIES PROGRAM INTERIM GUIDANCE</p>	
	<p>Distribution Restriction Statement Approved for public release; distribution is unlimited.</p>	

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
Washington, DC 20314-1000

EC 1105-2-217

CECW-P
CECW-B

Circular
No. 1105-2-217

30 November 1999

EXPIRES 31 DECEMBER 2001
Planning
THE CONTINUING AUTHORITIES PROGRAM
INTERIM GUIDANCE

1. Purpose. This circular transmits interim guidance for implementation of nine legislative authorities under which the Secretary of the Army, acting through the Chief of Engineers, is authorized to plan, design, and construct certain types of water resource and ecosystem restoration projects without additional project specific Congressional authorization. These authorities are called the Continuing Authorities Program (CAP) when referred to as a group. This guidance is effective immediately.
2. Applicability. This circular applies to all HQUSACE elements and USACE commands having Civil Works responsibilities.
3. Distribution. Approved for public release, distribution is unlimited.
4. References.
 - a. ER 11-2-201
 - b. ER 200-2-2
 - c. ER 1105-2-100
5. Background. In the fall of 1998, the Director of Civil Works appointed a Process Action Team to review the policies and procedures in place for the management of the CAP and to recommend changes. One result was the issuance of a memorandum dated 21 April 1999, subject "Delegation of Approval Authority for Continuing Authorities Program Decision Documents" which effectively delegated approval authority for all CAP decision documents to the Major Subordinate Command (MSC) commanders. This interim guidance formally implements that delegation. In addition, procedures for delegating responsibility for CAP funds management to the MSC commanders are included in this document. With this delegation, MSCs will have primary responsibility for effective program management and execution. A comprehensive regulation which more fully responds to the recommendations of the Process Action Team and which will implement broader programmatic changes is being prepared. That regulation will contain program principles, policies, procedures and necessary model cost

30 Nov 99

sharing agreement(s). However, in the interim, the existing policies and procedures for management of the CAP remain unchanged except as discussed in this circular.

6. Program Authorities. The nine legislative authorities that make up the CAP are:

a. Section 14, Flood Control Act of 1946 (PL 79-526), as amended, for emergency streambank and shoreline erosion protection for public facilities and services;

b. Section 103, River and Harbor Act of 1962 (PL 87-874), as amended, amends PL 727, an act approved August 13, 1946 which authorized Federal participation in the cost of protecting the shores of publicly owned property from hurricane and storm damage;

c. Section 107, River and Harbor Act of 1960 (PL 86-645), as amended, for navigation;

d. Section 111, River and Harbor Act of 1968 (PL 90-483), as amended, for mitigation of shoreline erosion damage caused by Federal navigation projects;

e. Section 204, Beneficial Uses of Dredged Material, Water Resource Development Act of 1992 (PL 102-580), as amended;

f. Section 205, Flood Control Act of 1948 (PL 80-858), as amended, for flood control;

g. Section 206, Aquatic Ecosystem Restoration, Water Resources Development Act of 1996 (PL 104-303), as amended;

h. Section 208, Flood Control Act of 1954 (PL 83-780), as amended, originally Section 2, Flood Control Act of August 28, 1937 (PL 75-406) for snagging and clearing for flood control;

i. Section 1135, Project Modifications for Improvement of the Environment, Water Resource Development Act of 1986 (PL 99- 662), as amended.

7. Project and Program Management Responsibilities.

a. Headquarters Responsibilities. Headquarters management responsibilities for the CAP include overall program guidance; development of the President's budget; response to authorization and appropriation act and report language; allocation of funds; and monitoring of policy and procedural compliance and financial and physical performance.

b. MSC Responsibilities. The MSC commander is responsible for maintaining written standard operating procedures for the management and monitoring of Division reserves and planning, design, and construction activities; assuring compliance with policies regarding study and project eligibility; establishing baseline costs and schedules; approving projects and authorizing funding of new studies and projects within the MSC's reserves. In order to facilitate

headquarters oversight, upon request for funds to initiate a new study and request for construction commitment, the MSC commander will provide headquarters (Attn: CECW-P) a brief fact sheet describing the project, including cost, schedule and sponsor.

c. **District Responsibilities.** The district commander is responsible for assuring that studies and projects are technically sound, and completed in a timely and economical manner consistent with applicable policies and procedures.

8. Approval Authorities.

a. **Decision Documentation.** MSC commanders will establish the documentation requirements and procedures that are required for project approval, and will approve such documentation accordingly. MSC commanders may not further delegate the documentation approval authority to district commanders.

b. **Documents.** MSC commanders are authorized to approve all CAP decision documents, including Initial Appraisal Reports, Preliminary Restoration Plans, Ecosystem Restoration Reports, Detailed Project Reports and all other decision documents regardless of the cost of the project recommended. This authority may not be further delegated.

c. **Project.** MSC commanders are authorized to approve CAP projects for construction based on approved documentation. This may occur anytime following completion of the feasibility phase when there is sufficient information to make a construction decision. This authority may not be further delegated to district commanders.

d. **Withdrawal of Project Approval.** Project approval may be withdrawn by MSC commanders upon the recommendation of the district commander. This decision will be made after consultations, as appropriate, with the sponsor, Headquarters, and, if necessary, the Assistant Secretary of the Army (Civil Works).

e. **Agreements.**

(1) MSC commanders are authorized to approve feasibility cost share agreements and project cooperation agreements that do not deviate from approved models. This authority may not be delegated further.

(2) In cases where there is not an approved model, or deviations are proposed, subsequent to project approval, the MSC commander will provide to HQUSACE (CECW-AR) six hard copies of the negotiated draft agreement with the deviations indicated by marking up a copy of the model agreement; an electronic file containing the draft agreement, an explanation of the deviations, the Certification of Legal Review from the district, one copy of the approved decision document, the district commander's assessment of financial capability, a checklist meeting CECW-AR requirements, and a current letter from the non-Federal sponsor. A copy of the transmittal memorandum, and if not previously provided, a copy of the current project fact sheet and decision document should also be provided to CECW-P.

(3) Approved project cooperation agreements may be executed by the district commander subsequent to completion of all environmental compliance actions including receipt of water quality certification for the entire project, and commitment of construction funds.

9. Program Funding.

a. Coordination Accounts.

(1) Purpose. These funds are to be used to respond to requests for information or assistance; assemble district teams for initial contact and site investigations; and to meet with potential sponsors. These funds are used only for activities that cannot be applied to specific projects, and may not be used to supplement funding for an activity having a Corps Work Item Number (CWIN). These accounts may not be used as supplements for coordination activities, such as the National Estuary Program, which receive line item funding.

(2) Method of Allocation. Coordination funds will be provided to the district, by authority, based on the request of the MSC commander early in the fiscal year. The total amount of coordination funds for all of the authorities will be limited to an average of \$75,000 per district.

(3) Management Responsibilities. The MSC commander will establish appropriate management limits and provisions assuring effective use of and accountability for the coordination funds.

(4) Reprogramming Authority. MSC commanders will establish MSC and district procedures. MSC commanders are authorized unlimited authority to reprogram coordination funds between districts, but not between authorities. No funds may be reprogrammed into or out of a coordination account from any other source without a Headquarters work allowance.

b. Estimated Allocations and MSC Reserve. HQ will provide an estimated total allocation of funds available in HQ by district and authority for use in preparing the 2101 Schedule of Obligations and Expenditures and FORCON data. The sum of these estimated allocations will be the MSC reserve. This reserve will include all new and continuing planning and design, construction, and coordination for all authorities and preparation of Preliminary Restoration Plans (PRPs) for Sections 206 and 1135. Each PRP will be limited to \$10,000. The MSC reserve will be held at HQ and reduced as work allowances are issued during the year. All work, new and continuing, must be accomplished within this MSC reserve until 31 March. At that time, all funds remaining unallocated in HQ, with the exception of funds committed for construction, will be available to any MSC on a first come first served basis.

(1) Method of Allocation. Headquarters will determine the amount available to each MSC based on funds available at the beginning of the fiscal year. These funds will be allotted by study and project to the district based on the request of the MSC commander. Unless the MSC commander specifies otherwise, all funds required for continuing stages will be issued in the initial work allowances. New stages will be funded as requested.

30 Nov 99

(2) **Management.** The MSC commander will set funding priorities for all on-going and new work. A CWIN will be issued at the start of the PRP for section 206 and section 1135 and at the start of planning and design for all other authorities.

(3) **Reprogramming Authority.** The MSC commander will establish district and MSC reprogramming procedures. MSC commanders are authorized the same reprogramming limits between projects and stages within an authority as for individually budgeted construction projects in accordance with ER 11-2-201. The MSC commander is not authorized to reprogram funds into or out of the coordination account. New stages may not be started by reprogramming.

c. **Commitment of Construction Funds.** HQ will commit construction funds based on the schedule provided by the MSC and subject to available and anticipated out-year funding. Committed construction funds will be held at HQ until the district is ready to award the contract. Funds available for commitment will be held in HQ in the MSC reserve account set aside for each division. MSC Commanders must request and receive commitment of construction funds prior to execution of the project cooperation agreement.

10. **Action Required.** This document provides interim guidance and delegation of approval authority and funds management for the CAP. Any comments regarding improvements and/or clarification during this interim period are to be submitted to HQUSACE (CECW-P), Washington, DC 20314-1000.

FOR THE COMMANDER:



ERIC R.POTTS
Colonel, Corps of Engineers
Executive Director of Civil Works