



DEPARTMENT OF THE ARMY
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FEB 22 2012

Ms. Anu K. Mittal
Director, Natural Resources and Environment
U.S. Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Ms. Mittal:

This is the Department of Defense (DoD) response to the GAO Draft Report, GAO-12-352, "ARMY CORPS OF ENGINEERS: Peer Review Process for Civil Works Project Studies Can Be Improved" dated March 2012 (GAO Code 361279). Thank you for the opportunity to review and comment on the draft report.

We concur with your first recommendation. For past and future project studies that undergo independent external peer review (IEPR), the Corps will list the specific statutory authorities under which the peer review was conducted and the criteria triggering the IEPR under Corps policy.

We partially concur with your second recommendation to revise the criteria in the Corps' process for conducting peer review to focus on larger, more complex and controversial projects, to encourage peer review to occur earlier in the study process, and to include exclusions to peer review that align with section 2034. The Corps is currently in the process of reviewing the overall efficiency and effectiveness of our Civil Works Review Policy (EC 1165-2-209). The findings and recommendations of this GAO report will be considered along with numerous other factors the Corps must balance.

We concur with your final recommendation to develop a documented process to ensure that contractors are independent and free from conflicts of interest on a project specific basis.

Responses to the GAO recommendations are enclosed.

Very truly yours,

Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)

Enclosure

GAO DRAFT REPORT – DATED MARCH 2012
GAO 12-352 (GAO CODE 361279)

ARMY CORPS OF ENGINEERS: Peer Review Process for Civil Works Project Studies
Can Be Improved

DEPARTMENT OF DEFENSE COMMENTS TO THE RECOMMENDATIONS

We generally concur with the GAO recommendations for executive action (as detailed below), but we do not concur with all of the GAO findings that have led to those recommendations. Whereas the GAO charge is focused exclusively on section 2034 of WRDA 2007, development of Corps policy must be responsive to all of our applicable statutes, administrative directives, and professional responsibilities. We believe this has resulted in a stronger policy overall. It is also unfortunate that so much weight in the GAO report has been placed on anecdotal remarks from field level officials who may not have had the benefit of the corporate vision supporting the Army Civil Works Program.

RECOMMENDATION 1: To facilitate Congressional evaluation of the 7-year trial period outlined in section 2034, the Corps should identify for each past and future peer review the specific statutory authority under which the peer review was conducted and the criteria triggering peer review under the Corps' civil works review policy.

DOD RESPONSE: CONCUR. The Corps Civil Works Review Policy (EC 1165-2-209) establishes an accountable, comprehensive, life-cycle review strategy for Civil Works projects by providing a seamless process for review of all Civil Works projects from initial planning through design, construction, and operation, maintenance, repair, replacement and rehabilitation. As such, the policy must satisfy not only the Chief of Engineer's inherent responsibility for ensuring project safety and quality of the products USACE provides to the American people, but also the numerous statutes applicable to Corps Civil Works activities. The Civil Works Review Policy addresses the Office of Management and Budget (OMB) peer review requirements under the "Information Quality Act" and the Final Information Quality Bulletin for Peer Review. It also provides guidance for the implementation of both Sections 2034 and 2035 of the Water Resources Development Act (WRDA) of 2007 (Public Law (P.L.) 110-114). For past and future project studies that undergo independent external peer review, the Corps will develop and implement an approach to list the specific statutory authorities under which the peer review was conducted and the criteria triggering the IEPR under Corps policy.

RECOMMENDATION 2: To better reflect section 2034 and provide more effective stewardship of public resources and ensure efficient and effective operations, the Corps should revise the criteria in the Corps process for conducting peer review to focus on larger, more complex and controversial projects, to encourage peer review to occur

earlier in the study process, and to include exclusions to peer review that align with section 2034.

DOD RESPONSE: PARTIALLY CONCUR. The Corps is currently in the process of reviewing the overall efficiency and effectiveness of our Civil Works Review Policy. The findings and recommendations of this GAO report will be considered along with those of several other ongoing internal Corps reviews which are directed at the full range of product review, not just independent external peer review (IEPR) for project studies. In general we agree that IEPR should be applied to studies that will significantly benefit from independent external peer review. Now that we have a track record to appraise, we will reassess our criteria and how the criteria are applied in determining which studies should undergo IEPR.

Regarding timing of reviews, the Corps agrees that initiating reviews early in the process is advantageous. However, early involvement of review panels must be balanced with having sufficient data and analysis available for review. The iterative planning process also complicates the scheduling and contracting process for IEPR panel members. Our existing Civil Works Review Policy states that "To the maximum extent practicable, reviews shall be scheduled and conducted early in the process This is particularly pertinent in the case of independent external peer reviews." We note that in implementing external peer review policy in 2005, many studies that were already well-along in their process now faced requirements to conduct IEPR. This resulted in a "backlog" of sorts which we believe accounts for the fact that a disproportionate number of studies in this audit had initiated IEPR relatively late in the study process. The Corps is currently undertaking a major overhaul of its planning processes (Civil Works Transformation) which is working, among other things, to shorten the planning study process and to better align product reviews for greater overall effectiveness.

Regarding exclusions to peer review, the Corps does not concur with the GAO findings that the Corps process does not include the flexibility provided in section 2034, and that some studies that have undergone peer review did not warrant it. The three instances specifically cited by GAO (Green Bay Dredge Material Management Plan, WI; Chacon Creek Flood, TX; and Yuba River General Re-evaluation Report, CA) were each carefully deliberated in support of the agency decision, and the Corps stands by its decisions to conduct IEPR on these studies. We also stand by all of the decisions we made for granting or denying IEPR exclusion to date. Nonetheless, as part of our overall review of the Civil Works Review Policy, we will assess the effectiveness of our criteria and how the criteria are applied toward determining which studies should be considered for exclusion.

Finally, in addition to the considerations above, refinements to the Civil Works Review Policy must be developed to reflect the emphases within other sections of WRDA 2007 as well as all other pertinent statutes and Administration priorities. Within WRDA 2007, for example, sections 2031, 2032, 2033 and 2035 all emphasize public safety, while section 2033 establishes a benchmark goal for significantly shorter study timeframes. In balancing all of these requirements and strategic directives, the Corps will continue to improve its review processes to provide procedures for ensuring the quality and credibility of U.S. Army Corps of Engineers decision, implementation, and operations and maintenance documents and work products.

RECOMMENDATION 3: To better reflect section 2034 and provide more effective stewardship of public resources and ensure efficient and effective operations, the Corps should develop a documented process to ensure that contractors are independent and free from conflicts of interest on a project specific basis.

DOD RESPONSE: CONCUR. The Corps will develop and implement a more transparent and better documented process for ensuring that contractors are independent and free from conflicts of interest on a project specific basis. Our current process already has many safeguards in place, but we will institute an additional process for obtaining information from contractors on a project specific basis, and for reporting that information in project documentation. We will base the approach on the protocols that OMB and the National Academies of Science have established for addressing independence and conflict of interest for individual panelists.