



REPLY TO

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

APR 09 2015

CECW-P

MEMORANDUM FOR Commanders, Major Subordinate Commands

SUBJECT: Implementation Guidance for Section 1001 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) – Vertical Integration and Acceleration of Studies

1. Section 1001 of WRRDA 2014 (Public Law 113-121) provides that, to the extent practicable, U.S. Army Corps of Engineers (USACE) final feasibility reports will be completed in three years and will have a maximum Federal cost of \$3 million and that USACE district, division and headquarters review will be concurrent. Section 1001 provides further that the Secretary of the Army may extend the timeline or approve Federal costs greater than \$3 million, subject to notification of the non-Federal sponsor and the Senate Committee on Environment and Public Works and the House of Representatives Committee on Transportation and Infrastructure (Committees). Finally, Section 1001 provides that the authorization for a particular feasibility study terminates if the study is not completed within certain timeframes. A copy of Section 1001 of WRRDA 14 is enclosed.
2. **Applicability.** This implementation guidance applies to every feasibility study for a proposed project that will require specific authorization if the feasibility cost sharing agreement (FCSA) for the study is executed after June 10, 2014. It also applies to other USACE planning decision documents including, but not limited to, Limited Re-Evaluation Reports and General Re-Evaluation Reports. This guidance does not apply to studies under the Continuing Authorities Program for which separate guidance will be provided.
3. **3x3x3 Rule and Compliance.** Section 1001 provides that, in general, the maximum Federal cost for a feasibility study is \$3 million. However, as a matter of policy, the USACE will continue to follow the 3x3x3 rule established prior to the enactment of WRRDA by Planning Bulletin 2014-01, *Subject: Application and Compliance of SMART Planning and the 3x3x3 Rule*, which limits the total study cost (i.e., the study costs shared by the USACE and the non-Federal sponsor) to \$3 million. Under 3x3x3, the Federal cost limit is \$1.5 million. Exemptions to this policy will be considered in accordance with paragraph 4, below.

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a. 3x3x3 Rule. The purpose of the 3x3x3 rule is to help focus the planning effort to critically evaluate an appropriate scope and scale of studies. The 3x3x3 rule is defined as follows:

(1) Maximum total study cost (shared study costs) of \$3 million. The costs included in this calculation are those costs incurred by USACE and the non-Federal Sponsor that are directly related to performance of the study and cost shared, i.e., the shared study costs.

(a) Independent External Peer Review (IEPR) Panel. USACE's costs of the Federally-funded IEPR panel are funded with study funds but are not included in the calculation of the shared study costs. In addition, these costs are not included in the calculation of the Federal cost limit of \$1.5 million.

(b) Audits and Study Coordination Team. Both USACE's and the Non-Federal Sponsor's costs for audits and participation on the study coordination team are not included in the calculation of the shared study costs. USACE's costs for audits and participation on the study coordination team, while not included in shared study costs, are funded with study funds and are included in the calculation of the Federal cost limit of \$1.5 million.

(2) Maximum three-year duration for the study, which starts with the signing of the FCSA and ends with signing of the Chief's Report.

(3) Three levels of USACE vertical team alignment, consisting of the district, division, and headquarters.

b. 3x3x3 Compliance. Project Delivery Teams (PDTs) are required to scope efforts to develop a 3x3x3 compliant Project Management Plan (PMP) by the Alternatives Milestone. The PMP will set out the study scope, costs, and schedule, including milestones, in accordance with the 3x3x3 process. 3x3x3 compliance will be documented by memorandum at the Alternatives Milestone, or a request for a 3x3x3 exemption will be prepared and submitted to the appropriate Regional Integration Team (RIT) for action.

4. Exemption from 3x3x3 Process. If at any time during the study the vertical team determines that the total cost of a study, excluding the costs of the IEPR panel, will exceed \$3 million and/or will take more than three years to complete, the process described in the Planning Bulletin (PB) 2012-04, *Subject: 3x3x3 Rule Exemption Process*, will be followed. By memorandum endorsed by the MSC Commander, the

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District Engineer will inform the Senior Leaders Panel of the path forward developed by the vertical team, in consultation with the non-Federal sponsor, to complete the study. The Senior Leaders Panel will provide its recommendation for further action as follows:

a. Total Federal Study Cost \$3 Million or less and Study Duration not Exceeding Three Years. The Deputy Commanding General - Civil and Emergency Operations ( DCG-CEO) may approve a total Federal study cost, excluding the costs of the IEPR panel, that will not exceed \$3 million in accordance with the existing exemption process in PB 2012-04.

b. Total Federal Study Cost More than \$3 Million or Study Duration More than Three Years. ASA(CW) approval is required for any study that, excluding the costs of the IEPR panel, will cost more than \$3 million Federal and/or will take more than three years to complete. The recommendation of the Senior Leaders Panel will be provided to the DCG-CEO. If the DCG-CEO recommends approval of the increased study cost or extended study period, that recommendation will be submitted to the ASA(CW), who will determine whether to approve the cost increase and/or time extension.

1) In accordance with Section 1001, the ASA(CW) may approve an extension of up to one year to allow for a total of four years to complete the final feasibility report or, if the ASA(CW) determines that the study is too complex to complete within four years, the ASA(CW) may approve an extension to allow for a total of up to seven years to complete the final feasibility report.

(2) The recommendation submitted to ASA(CW) will include a draft notification to the Senate Committee on Environment and Public Works and the House of Representatives Committee on Transportation and Infrastructure that is prepared by the appropriate RIT. The draft notification will explain the reasons for the cost increase or time extension. Further, if the duration of the study will exceed four years, the notice will identify the factors used in determining that the study is complex. These factors include the type, size, location, scope, and overall cost of the project as well as consideration of:

(a) whether the project will use any innovative design or construction techniques;

(b) whether the project will require significant action by other Federal, State, or local agencies;

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(c) whether there is significant public dispute as to the nature or effects of the project; and

(d) whether there is significant public dispute as to the economic or environmental costs or benefits of the project.

(3) If ASA(CW) determines that an extension to the study duration or increase in the study cost is appropriate, the ASA(CW) will provide notification of that determination to the Committees and include the reasons for the cost increase or time extension. In addition, the relevant district shall provide notification to the non-Federal sponsor of the ASA(CW)'s determination.

(4) The time it takes to consider the exemption request beginning with the receipt of the Division Commander's request and up to the decision by the DCG-CEO or the ASA(CW) will be excluded from the overall study time frame.

5. Termination of Study Authorization. Any feasibility study not completed within the approved time frames as set out in this memorandum, including any extension approved by the ASA(CW), is no longer authorized, and the study will be terminated. In the case of a study undertaken under a general authority, such as Section 216 of the Flood Control Act of 1970, the particular study will be terminated but the general study authority is not affected. All questions regarding the termination of study authority should be addressed by HQUSACE Counsel and Planning and Policy.

6. Agency Review and Coordination. Within the 90 days after execution of the FCSA for a feasibility study, the PDT will:

a. Initiate the process for completing federally mandated reviews, including environmental review processes under the National Environmental Policy Act (NEPA) discussed under Section 1005 (Project Acceleration) of WRRDA 2014. Additional, separate guidance will be provided for Section 1005 in the near future.

b. Convene a meeting of all Federal, tribal, and State agencies that have jurisdiction over the project, or that may be required by law to conduct or issue a review, analysis, or opinion on or to make a determination concerning a permit or license for the study in accordance with the implementation guidance for Section 2045(e) of WRDA 07 dated 6 April 2012; and

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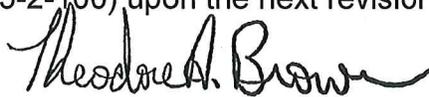
c. Take all steps necessary to provide information that will enable required reviews and analyses related to the project to be conducted by other agencies in a thorough and timely manner.

7. Report to Congress.

a. Interim Report . By 30 October 2015, each RIT will provide CECW-P a list of studies that have been implemented using the planning process authorized in Section 1001 of WRRDA 2014. For each study, the RIT will list the date of the following Milestones: Release of draft feasibility report for public comment and concurrent review (CW250); District Submit Final Feasibility Report (CW160); MSC transmittal of final feasibility report (CW260); and Signed Chief's Report (CW270) and the reasons for any delays. No later than 10 December 2015, CECW-P will provide the ASA(CW) with a draft report that compiles this information and includes recommendations, if any for additional authority necessary to support efforts to expedite the feasibility study process for water resource projects. The ASA(CW) will provide the report to the Committees.

b. Final Report. By 10 April 2018, each RIT will provide CECW-P a list of studies that have been implemented using the 3x3x3 planning process and the amount of time taken to complete each study. No later than 10 June 2018, CECW-P will provide ASA(CW) with a draft report that compiles this information and includes recommendations, if any, for additional authority necessary to support efforts to expedite the feasibility study process, including an analysis of whether the maximum Federal cost limitation needs to be adjusted to address the impacts of inflation. The ASA(CW) will provide the report to the Senate Committee on Environment and Public Works and the House of Representatives Committee on Transportation and Infrastructure.

8. This guidance is effective immediately and will be incorporated into the Planning Guidance Notebook (ER 1105-2-100) upon the next revision.



Encl

THEODORE A. BROWN, P.E.  
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ATTACHMENT

**WRRDA 2014 LANGUAGE: SEC. 1001. VERTICAL INTEGRATION AND ACCELERATION OF STUDIES.**

33 U.S. Code §2282c

(a) In General.--To the extent practicable, a feasibility study initiated by the Secretary, after June 10, 2014, under section 905(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2282(a)) shall--

(1) result in the completion of a final feasibility report not later than 3 years after the date of initiation;

(2) have a maximum Federal cost of \$3,000,000; and

(3) ensure that personnel from the district, division, and headquarters levels of the Corps of Engineers concurrently conduct the review required under that section.

(b) Extension.--If the Secretary determines that a feasibility study described in subsection (a) will not be conducted in accordance with subsection (a), the Secretary, not later than 30 days after the date of making the determination, shall--

(1) prepare an updated feasibility study schedule and cost estimate;

(2) notify the non-Federal feasibility cost-sharing partner that the feasibility study has been delayed; and

(3) provide written notice to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives as to the reasons the requirements of subsection (a) are not attainable.

(c) Termination of Authorization.--A feasibility study for which the Secretary has issued a determination under subsection (b) is not authorized after the last day of the 1-year period beginning on the date of the determination if the Secretary has not completed the study on or before such last day.

(d) Exception.--

(1) In general.--Notwithstanding the requirements of subsection (c), the Secretary may extend the timeline of a study by a period not to exceed 3 years, if the Secretary determines that the feasibility study is too complex to comply with the requirements of subsections (a) and (c).

(2) Factors.--In making a determination that a study is too complex to comply with the requirements of subsections (a) and (c), the Secretary shall consider--

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(A) the type, size, location, scope, and overall cost of the project;

(B) whether the project will use any innovative design or construction techniques;

(C) whether the project will require significant action by other Federal, State, or local agencies;

(D) whether there is significant public dispute as to the nature or effects of the project; and

(E) whether there is significant public dispute as to the economic or environmental costs or benefits of the project.

(3) Notification.--Each time the Secretary makes a determination under this subsection, the Secretary shall provide written notice to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives as to the results of that determination, including an identification of the specific 1 or more factors used in making the determination that the project is complex.

(4) Limitation.--The Secretary shall not extend the timeline for a feasibility study for a period of more than 7 years, and any feasibility study that is not completed before that date shall no longer be authorized.

(e) Reviews.--Not later than 90 days after the date of the initiation of a study described in subsection (a) for a project, the Secretary shall--

(1) take all steps necessary to initiate the process for completing federally mandated reviews that the Secretary is required to complete as part of the study, including the environmental review process under section 1005;

(2) convene a meeting of all Federal, tribal, and State agencies identified under section 2045(e) of the Water Resources Development Act of 2007 (33 U.S.C. 2348(e)) that may be required by law to conduct or issue a review, analysis, or opinion on or to make a determination concerning a permit or license for the study; and

(3) take all steps necessary to provide information that will enable required reviews and analyses related to the project to be conducted by other agencies in a thorough and timely manner.

(f) Interim Report.--Not later than 18 months after June 10, 2014, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report that describes--

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(1) the status of the implementation of the planning process under this section, including the number of participating projects;

(2) a review of project delivery schedules, including a description of any delays on those studies participating in the planning process under this section; and

(3) any recommendations for additional authority necessary to support efforts to expedite the feasibility study process for water resource projects.

(g) Final Report.--Not later than 4 years after June 10, 2014, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report that describes--

(1) the status of the implementation of this section, including a description of each feasibility study subject to the requirements of this section;

(2) the amount of time taken to complete each feasibility study; and

(3) any recommendations for additional authority necessary to support efforts to expedite the feasibility study process, including an analysis of whether the limitation established by subsection (a)(2) needs to be adjusted to address the impacts of inflation.