

DRAFT EC ON CIVIL WORKS LEGISLATIVE PROCESS

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

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CECW-P

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Planning

CIVIL WORKS LEGISLATIVE PROCESS

1. Purpose. The purpose of this engineer circular is to present guidance on the Civil Works Legislative Process.
2. Applicability. This circular applies to all Headquarters United States Army Corps of Engineers (HQUSACE) elements, United States Army Corps of Engineer (USACE) major subordinate commands (MSCs), districts, laboratories, and centers that have Civil Works responsibility.
3. Distribution Statement. Approved for public release, distribution is unlimited.
4. References.
 - a. 18 U.S.C. § 1913, Lobbying with Appropriated Moneys
 - b. OMB Circular A-11, (budget instructions for Federal agencies)
 - c. OMB Circular A-19, (legislative instructions for Federal agencies)
 - d. ER 1105-2-100, Planning Guidance Notebook
 - e. EC 11-2-179, Program Development Guidance
 - f. CECW-A/CECW-B Memorandum dated 3 October 1997, Subject: Administering Requests for Views on Proposed Legislation and Legislative Drafting Services
 - g. CECS-C Memorandum dated 10 December 1998, Subject: Congressional Contacts Database
 - h. CECW-BD Memorandum dated 28 March 2001, Subject: Executive Branch Policy Regarding Disclosure of Information on the Civil Works Budget
5. Background. MSC and district planning chiefs are closely involved in the legislative process leading to the development of the biennial USACE Civil Works legislative program. Appendix A, Civil Works Legislative Process, to this circular, presents detailed information on all aspects of the process including water resources development acts, study resolutions, legislative drafting services, comments on proposed legislation and congressional hearings. This

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circular and Appendix A have been prepared in accordance with the Project Management Business Process to link and align authorization and appropriations objectives to develop authorization legislation consistent with the goals of the Civil Works mission. MSC's, as regional business centers, will be active partners in the Civil Works legislative process.

6. Water Resources Development Acts (WRDA). Chapter 2 of Appendix A describes the ideal process for development of a WRDA. The Army Civil Works Legislative Program is the Administration's legislative program for water resources development. Preparation of USACE legislative proposals is the initial step in development of the Administration's legislative program.

7. Development of USACE Legislative Proposals.

a. Legislative Action Team. The process for development of USACE legislative proposals is described in Appendix A, chapter 2, paragraph 2-3. The first step in the process is convening the Legislative Action Team. Team members are shown in Appendix A, Exhibit 2-2. The Legislative Action Team will include MSC WRDA points of contact who will be active during the entire process of WRDA development. Duties of the Legislative Action Team and MSC WRDA points of contact include developing legislative proposals, providing information on Member issues, and providing draft study resolutions and legislative drafting services.

b. Legislative Proposals. The next step in the process is to request legislative proposals from all elements of USACE with Civil Works responsibility. The development of the legislative proposals is a collaborative team effort that includes HQUSACE elements, MSCs, district commands, laboratories and centers. District commands submit their proposals to the appropriate MSC WRDA point of contact. Laboratories send their legislative proposals through the Engineer Research and Development Center for a coordinated response. Legislative proposals are submitted in accordance with paragraph 2-3.c. of Appendix A. The format and information required for legislative proposals are shown on Exhibit 2-3.

c. Precautions. All USACE elements are reminded that in discussions with local sponsors, Members of Congress and their staff, and congressional committee staff that certain restrictions apply. 18 U.S.C. § 1913 prohibits the use of appropriated moneys to influence Members on proposed legislation. OMB Circular A-11 contains restrictions on the release of budgetary information. CECW-BD Memorandum dated 28 March 2001, Subject: Executive Branch Policy Regarding Disclosure of Information on the Civil Works Budget provides the conditions, limitations, and other caveats for disclosure of budgetary information.

8. Authorization of Projects and Project Modifications. Scheduling of feasibility reports for project authorizations and reports for project modifications (post authorization changes) for inclusion in WRDA is difficult to forecast with any degree of certainty. The following general guidelines are provided for your use. Each project for which favorable Administration review has been completed is forwarded to the Congress by the Assistant Secretary of the Army (Civil Works) for authorization in the next WRDA bill. If that review is completed by February of the second year of the biennial WRDA cycle, these projects will also be included in the Army Civil Works Legislative Program when it is sent to Congress. Since enactment of WRDA 1996,

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Congress has included in the water resources development bills, projects for which a favorable Chief of Engineers report, and project modifications for which a favorable Director of Civil Works report, have been completed by 31 December of the year of enactment, for conditional authorization.

9. Legislative Drafting Services and Comments on Proposed Legislation. All previous guidance on legislative drafting services is rescinded. Chapter 4 of Appendix A contains guidance for legislative drafting services. Chapter 5 of Appendix A contains guidance for comments on proposed legislation.

10. Websites. This regulation is located at the following website:

<http://www.usace.army.mil/inet/usace-docs/eng-circulars/>

Current information on Civil Works legislation can be found at the following website:

http://www.usace.army.mil/inet/functions/cw/cecwa2/branches/leg_manage/index.htm

FOR THE COMMANDER:

1 Appendix
APP A - Civil Works
Legislative Process

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APPENDIX A CIVIL WORKS LEGISLATIVE PROCESS

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CHAPTER 1

INTRODUCTION

1-1. Purpose. This appendix provides a description of the Civil Works legislative process and establishes roles and responsibilities of elements involved in this process. It has been prepared in accordance with the Project Management Business Process.

1-2. Applicability. This appendix applies to all Headquarters United States Army Corps of Engineers (HQUSACE) elements, United States Army Corps of Engineer (USACE) commands, laboratories, and centers that have Civil Works responsibility.

1-3. Relationship between the Authorization Process and the Appropriations Process. The guiding principle in the political process is to first obtain authority and then to seek funding. The authorization process provides the legislative authority and congressional direction and the appropriation process provides the funding and congressional direction for Civil Works programs, studies and projects. A team approach is followed to link and align authorization and appropriations objectives and development of authorization legislation consistent with the goals of the Civil Works mission. The authorization process is managed by the Legislative Management Branch, Planning and Policy Division, Civil Works Directorate and this appendix applies to that process. The Programs Management Division, Civil Works Directorate manages the appropriations process and all legislative issues related to appropriations. The annual engineer circular on Program Development Guidance, applies to the appropriations process.

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CHAPTER 2

WATER RESOURCES DEVELOPMENT ACTS

2-1. Introduction. The development of a water resources development act (WRDA) is a complex process which involves many organizational elements of USACE. A WRDA provides for project authorizations, project modifications, reauthorizations and deauthorizations of various Corps of Engineers water resources projects, and study authorizations for various water resources purposes. These purposes include navigation, flood damage reduction, environmental restoration, shore protection and storm damage reduction, hydropower, water supply, recreation, and other water resources related needs. The WRDA legislation may also include various policy initiatives, regional programs, and revisions to existing Corps of Engineers water resources programs. This chapter explains the WRDA process and assigns responsibilities.

2-2. The Federal Perspective and the Army Civil Works Legislative Program.

a. Requirement for Legislative Program. Each Executive Branch agency is required to prepare and submit to the Office of Management and Budget (OMB) annually the agency's proposed legislative program for the next session of Congress. The essential purposes for requiring agencies to submit annual legislative programs are: (1) to assist agency planning for legislative objectives; (2) to help agencies coordinate their legislative program with the preparation of their annual budget submission to OMB; (3) to give agencies an opportunity to recommend specific proposals for Presidential endorsement; and (4) to aid OMB and other staff of the Executive Office of the President in developing the President's legislative program, budget, and annual and special messages.

b. Biennial Authorization Cycle. After passage of the Water Resources Development Act of 1986, the authorization committees of the Congress with jurisdiction over the USACE Civil Works program (Senate Committee on Environment and Public Works and House Committee on Transportation and Infrastructure) and the Administration determined that a biennial authorization cycle enhances the orderly and efficient prosecution of the Civil Works program. Therefore, the major legislative program for USACE is prepared and submitted every two years. "Off year" legislative programs, if required, contain the legislation necessary to implement the President's Budget. Exhibit 2-1 is an ideal 2 year (biennial) cycle for the WRDA process.

c. The Army Civil Works Legislative Program. The Administration's biennial WRDA proposal is known as the Army Civil Works Legislative Program. The Assistant Secretary of the Army for Civil Works (ASA(CW)) coordinates the Army Civil Works Legislative Program within Department of the Army and the Office of the Army General Counsel and then transmits the Army proposal to OMB which conducts the Federal agency review for the Administration. When this review is completed, the approved Army Civil Works Legislative Program is returned to the ASA(CW) for transmission to Congress. This process starts in January of year 1 of the biennial cycle. Within the framework of ongoing policy dialogue and coordination, the ASA(CW) and the Director of Civil Works, supported by HQUSACE staff, establish legislative priorities and guidance for achieving the Administration's objectives including such intermediate

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activities as necessary to complete the Army Civil Works Legislative Program by February of year 2 of the cycle. The development of the legislative proposals is a collaborative team effort that includes HQUSACE elements, major subordinate commands (MSCs), district commands, laboratories and centers. The Director of Civil Works forwards approved proposals to the Chief of Engineers for transmittal to the ASA(CW) to be considered for incorporation in the Army Civil Works Legislative Program.

2-3. Development of USACE Legislative Proposals.

a. Purpose. This section describes how USACE develops legislative proposals for consideration by the Administration. USACE proposals represent the priorities and needs of the Nation for water resources development and include the legislation that is needed to meet these needs. In addition to legislation for new initiatives, USACE proposals also address any changes or adjustments to existing programs which require legislative action.

b. Legislative Action Team. The first step in the WRDA process is convening the Legislative Action Team. All HQUSACE offices involved in Civil Works programs are represented on the Legislative Action Team. In addition, MSCs establish primary and alternate points of contact to work on the Legislative Action Team throughout the WRDA process. Duties of the Legislative Action Team and MSC WRDA points of contact include developing legislative proposals, providing information on Member issues, and providing draft study resolutions and legislative drafting services to the authorization committees. Draft study resolutions and legislative drafting services are addressed in chapters 3 and 4, respectively, of this appendix. See Exhibit 2-2 for organizational membership of the Legislative Action Team. The chair of the team is the branch chief of the Legislative Management Branch, Planning and Policy Division, Directorate of Civil Works. Team members of the Legislative Management Branch serve on the Legislative Action Team. Their duties include staff support to the Legislative Action Team and assisting the Legislative Action Team in preparation and review of legislative proposals. The team is normally convened in February of the first year of the biennial WRDA cycle. The Director of Civil Works opens the first meeting of the team to communicate priorities and set the team agenda.

c. Legislative Proposals. Next, the Legislative Action Team requests legislative proposals from HQUSACE elements, MSCs, district commands, laboratories and centers. This is normally done in March of year 1 of the biennial cycle with a 60 day deadline for submission of proposals. In developing legislative proposals, USACE organizations should observe the following guidelines. Proposals must be thorough and complete since the information provided is often all that is available to defend legislative proposals during the review process by the Legislative Action Team, the Office of the ASA(CW), OMB and congressional staff. Exhibit 2-3 provides the required format for the legislative proposals. The proposal author ensures thorough coordination within the proposing organization. If possible, the proposal author enlists a HQUSACE proponent to provide guidance in preparing the proposal. The originating organization's Office of Counsel furnishes assurance that legislation is necessary and assists in drafting the bill and report language. Back-up documentation is required for cost, savings or revenue data presented.

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d. Projects or Projects Modifications which Have Completed Administration Review.

Projects or project modifications that have completed Administration review are included in the USACE recommended legislative program.

e. USACE Recommendations. Final decisions on the legislative proposals which the Chief of Engineers will recommend for inclusion in the Administration's proposal are based on the evaluation of the Legislative Action Team and decision briefings with the senior leaders of the Directorate of Civil Works, the Director of Civil Works and the Chief. The Legislative Action Team, with support from the Senior Counsel for Legislation, is responsible for preparing associated bill and report language. The Chair of the Legislative Action Team is responsible for preparing the memorandum transmitting the Chief of Engineers recommendations to the ASA(CW). The Chief's recommendations are typically submitted in August of year 1 of the biennial cycle.

2.4. Development of the Army Civil Works Legislative Program. The ASA(CW) is responsible for preparing the proposed Army Civil Works Legislative Program and transmitting the proposal to OMB. OMB conducts review of the Army proposal on behalf of the Administration and clears the final proposal for transmittal to Congress. As shown on Exhibit 2-1, the ASA(CW) transmits Army Civil Works Legislative Program to Congress about 1 February in year 2 of the biennial WRDA cycle. HQUSACE supports the Office of the ASA(CW) throughout this process. The Chair of the Legislative Action Team ensures that this support is provided.

2-5. Coordination with the Congress.

a. Introduction. The House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works have committee jurisdiction for USACE water resources legislation, programs and activities. The Legislative Management Branch works closely at the staff level with both of these authorization committees on a continual basis, particularly during year 2 of the biennial cycle.

b. Water Resources Development Act Hearings. Typically, both the House and Senate authorization committees conduct hearings during the period from March to May in year 2 of the biennial cycle. The House Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment normally holds three separate WRDA hearings to receive testimony from the Administration, Members of Congress, and water resources interest groups. The Senate Environment and Public Works Committee normally holds one WRDA hearing with the Administration testifying. Usually, the ASA(CW) and the Director of Civil Works are the witnesses for the Administration. The Chair of the Legislative Action team leads the briefing of the witnesses who testify at the Administration hearings.

c. Requests for Information. When the House and Senate hearings are announced to the Members of Congress, the staff of both authorization committees begin to get requests from Members to include specific items in the WRDA bills. These requests can include water resources programs, land transfers of various sizes, new or modified projects and studies of various sizes, and numerous miscellaneous items. The Chair of the Legislative Action Team,

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utilizing the team, works closely with the committee staff to ensure that background information on possible Member and committee legislative proposals for the biennial WRDA bill is provided. In addition, assistance is provided to Office of the ASA(CW) and OMB in analyzing legislative proposals, providing draft Administration positions on each proposal, developing the Administration's position on provisions of WRDA, and preparing a recommendation to advise the President on the WRDA bill.

d. Summary of Corps Feasibility Reports and Summary of Corps Post Authorization Change Reports. The authorization committees request and the Legislative Action Team transmits these summaries to the authorization committees for projects which will have a completed Chief's report or Director of Civil Works report in year 2 of the biennial authorization cycle. The format for these summaries is contained in ER 1105-2-100, Planning Guidance, Appendix H-4 g (1).

e. Water Resources Development Act Fact Sheets. During year 2 of the biennial WRDA cycle, Legislative Management Branch receives requests from the authorization committees for information on Member or committee issues. The team for preparation of fact sheets on site specific or project related items consists of the Civil Works Directorate project integrator (area manager) in Programs Division, the team member from Planning Management Branch (planning manager) in Planning and Policy Division, the MSC WRDA point of contact, and the team member in Legislative Management Branch. Legislative proposals involving policy or general considerations are tasked to the appropriate member of the Legislative Action Team. MSC and headquarters offices ensure that horizontal coordination takes place during fact sheet preparation, e.g. real estate, project operations, etc. After team approval, the team member in Legislative Management Branch forwards the fact sheets to the staff of the Senate and House authorization committees for their use in evaluating and drafting the legislation and makes copies of the WRDA fact sheets available to the responsible area manager, planning manager, and MSC WRDA point of contact. The entire fact sheet procedure uses e-mail and electronic files only. Exhibit 2-4 is the standard format for the WRDA Fact Sheet. Exhibit 2-5 is the format of the WRDA Proposal, Recommended USACE Position.

f. Enactment of the Water Resources Development Act. Under the ideal cycle for WRDA legislation, the authorization committees mark up and report out their bills in the period from May to August in year 2 of the biennial cycle. The full House and Senate usually pass WRDA bills shortly after being reported out of committee. If House and Senate passed versions differ significantly, the chambers hold a conference. The House and Senate then pass the conference version and send it to the President. OMB and the Office of the ASA(CW) are active during floor and conference action on WRDA. OMB, in coordination with the Office of the ASA(CW) and HQUSACE, prepares a Statement of Administration Policy on marked up bills and the final conference report. The final step is the President's signature and the WRDA becomes law. Necessary implementation guidance is developed after enactment.

2-6. Cost Estimates.

a. Cost Estimates for USACE Feasibility Reports and Project Modifications. Project delivery teams provide cost estimates for all feasibility reports and project modifications which

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are to be completed in year 2 of the biennial authorization cycle. These costs are continually updated and furnished periodically to the authorization committees. Accuracy of these cost estimates is important since these estimates are used by the committees to ensure that cost data in marked up and passed bills is current.

b. Cost Estimates for Member Requests. The WRDA fact sheets for Member requests also require cost estimates. MSCs and districts provide the best cost data possible since these numbers become part of Congress' consideration of the proposal and may be included in the WRDA.

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EXHIBIT 2-1

BIENNIAL CYCLE FOR ENACTMENT OF A WRDA

YEAR 1 (First Session of Congress)

1 January – ASA(CW) and Director of Civil Works discuss legislative priorities and Administration goals and establish guidance.

1 February – Director of Civil Works convenes Legislative Action Team.

1 March - Legislative Action Team solicits legislative proposals from HQUSACE elements, major subordinate commands, district commands, laboratories and centers.

1 May - Deadline for submission of legislative proposals to Legislative Action Team.

1 May - Legislative Action Team initiates the review and evaluation of legislative proposals culminating in draft Chief of Engineers recommendations.

1 August - Chief of Engineers transmits legislative proposals to ASA(CW).

1 October - ASA(CW) submits Army Civil Works Legislative Program to (OMB).

1 October to 1 February - OMB conducts Administration review (other Federal agencies) and clears the Army Civil Works Legislative Program (WRDA proposal).

YEAR 2 (Second Session of Congress)

1 February - ASA(CW) submits the Army Civil Works Legislative Program (WRDA proposal) to Congress to coincide with submission of President's Budget.

1 March - House and Senate authorization committees receive WRDA requests from Members.

1 March to 1 May - House and Senate authorization committees hold WRDA hearings.

1 May to 1 August - House and Senate authorization committees mark up and report their bills. House and Senate pass their bills.

1 August to 15 September - House and Senate hold Conference. Conference report adopted by House and Senate and sent to President.

1 October - President signs the WRDA.

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EXHIBIT 2-2

LEGISLATIVE ACTION TEAM MEMBERS

Programs Management Division, Directorate of Civil Works (CECW-B)

Planning and Policy Division, Directorate of Civil Works

Deputy Chief (CECW-P)

Chief, Legislative Management Branch, (CECW-PL)

Chief, Mission Planning and Development Branch, (CECW-PD)

Chief, Planning Management Branch (CECW-PM)

Team Members, Legislative Management Branch (CECW-PL)

Engineering & Construction Division, Directorate of Civil Works (CECW-E)

Operations Division, Directorate of Civil Works, (CECW-O)

Directorate of Real Estate, Civil Division (CERE-C)

Office of the Chief Counsel, Legislation, Fiscal and General Law, Senior Counsel for Legislation (CECC-G)

Interagency and International Services Division, Military Programs, Chief External Affairs Branch, (CEMP-NE)

Environmental Division, Military Programs, Chief, Intergovernmental and Superfund Support Branch (CEMP-RS)

Institute for Water Resources, Chief, Policy Division (CEIWR-PD)

Directorate of Research and Development, Civil Works Programs (CERD-C)

Major Subordinate Command Points of Contact for the WRDA Process

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EXHIBIT 2-3

LEGISLATIVE PROPOSAL

1. PURPOSE OF LEGISLATION: (Provide short statement of purpose that can be used as title.)
2. CITATION OF LAW(S) BEING AMENDED: (If law or laws are being amended, give proper citations.)
3. LEGISLATIVE OBJECTIVE: (Provide detailed description of problems that proposed legislation will overcome and how.)
4. EXISTING AUTHORITIES CONSIDERED AND REJECTED: (List authorities reviewed, why rejected, and provide citation of laws or regulations reviewed and rejected.)
5. OTHER FACTS AND DISCUSSION: (Provide any pertinent facts or discussion and include justification for legislative proposal and feasible alternatives to the legislative proposal. Provide statement from Office of Counsel that legislation is necessary, and that this action cannot be done administratively.)
6. BUDGETARY IMPACT (cost, revenue, or savings): (Include total, Federal and non-Federal cost, revenue, or savings by Fiscal Year projected into the future. Indicate price levels of cost, revenue and savings data. Attach back-up data as necessary.)
7. PROVIDE SUGGESTED DRAFT LEGISLATIVE LANGUAGE: (Provide bill language, which is the exact legislative language, required to accomplish your purpose. Also provide report language which is an analysis of the legislative proposal and explains what the legislation does.)
8. BACK-UP MATERIAL: (Attach any additional information or background material to assist Legislative Action Team in reviewing and preparing your proposal for Chief of Engineers, ASA(CW), OMB and congressional approval.)

Submitted by: _____
(Name, office symbol and telephone number of proposal author)

Organization: _____
(MSC, District, Laboratory or Center)

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EXHIBIT 2-4

CEXXXX

DDMMYY

WRDA FACT SHEET

SUBJECT: (Do not change subject name without first contacting CECW-PL.)

LOCATION: City: County: State:

DESCRIPTION: (Describe what the Member's request is intended to do.)

BACKGROUND: (Address physical aspects of proposed project. Has USACE studied this before – what did we find? Does USACE have anything currently underway here – when will it be completed?)

PREVIOUS CONGRESSIONAL ACTION: (Has there been any previous congressional actions related to the proposal – what did they do and what were the results/recommendations? Does the proposal intend to amend existing statute – what statute?)

ISSUES: (What is related USACE policy – is this proposal inconsistent with it – why?)

OTHER INFORMATION: (Any other pertinent information or facts.)

ESTIMATED COST:

Federal: \$ Non-Federal: \$ Total: \$

Source/Age of Cost Information: (If these are USACE estimates, how current are they? Are the estimates from another source – what is that source; how current is that information; are there any qualifying criteria?)

LOCAL INTEREST OR OPPOSITION: (Include all known interest – is there known support or opposition?)

CONGRESSIONAL INTEREST:

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EXHIBIT 2-5

CEXXXX

DDMMYY

WRDA PROPOSAL
RECOMMENDED USACE POSITION

SUBJECT: (Do not change subject name without first contacting CECW-PL.)

RECOMMENDED USACE POSITION: (STRONGLY OPPOSE/OPPOSE/NO
OBJECTION/SUPPORT)

Reason for position: (Provide basis for position.)

POINT OF CONTACT FOR ADDITIONAL INFORMATION:

Name: Office: Phone: Approved By:

(MSC or district draft includes name of responsible action officer, office symbol and phone number. For HQUSACE approved version, include HQUSACE action officer name, office symbol and phone number. "Approved By" contains initials of approving HQUSACE division chief or designated representative.)

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CHAPTER 3

STUDY RESOLUTIONS

3-1. Background. Identification of water resources related problems usually originates with local, regional or state interests. The problem is then raised, normally through a Member of Congress (Senator or Representative), to the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives for consideration. USACE may be consulted at any time in this process as to the best method for evaluating the problem and the authorities available to pursue solutions. Non-Federal interests, Members of Congress, their staffs, or Committee staff can request such advice. Where applicable, study resolutions provide an expedited mechanism to authorize the needed evaluation of problems.

3-2. Authority. Section 4 of the Act of March 4, 1913, commonly known as the Rivers and Harbors Act of 1913, as amended (33 U.S.C. 542), provides authority for the Committee on Environment and Public Works of the United States Senate or the Committee on Transportation and Infrastructure of the United States House of Representatives by resolution to direct a review of existing reports on examinations, surveys and special reports authorized by Congress and prepared by USACE. Resolutions generally direct the Secretary of the Army to undertake such reviews, which are processed through USACE in the same manner as a study under a specific authority, provided in a WRDA or other enacted legislation.

3-3. Draft Study Resolution. The authority for study resolutions applies where there is a completed USACE report for a previously authorized study of water resources issues or needs in the area, whether or not a project was recommended or built. USACE provides the technical service of drafting appropriate committee resolution language to authorize the desired study or restudy in response to a request from a Member of Congress, their staff or committee staff. This assistance is a technical service, the same as any legislative drafting service.

3-4. Procedures. The team for preparation of draft study resolutions includes the responsible district office, the MSC WRDA point of contact, the planning manager, the area manager, and the team member in Legislative Management Branch. Exhibit 3-1 is the format for a draft study resolution. Exhibit 3-2 is the format for the fact sheet, which will accompany the draft study resolution. The team member in Legislative Management Branch provides the draft study resolution and fact sheet to the committee staff and makes a copy of the draft study resolution and fact sheet available to the area manager, the planning manager, the MSC WRDA point of contact, and the district team member when it is furnished to the committee.

EXHIBIT 3-1

DRAFT STUDY RESOLUTION

**Happyface River Basin, Florida
(Name of Study or Study Area)**

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives (or *Committee on Environment and Public Works of the United States Senate*), That the Secretary of the Army is requested to review the report of the Chief of Engineers (or *other specified Corps report*) on the Happyface River Basin project, Florida (**name of completed report that is clearly relevant and appropriate for review to address the area and issues proposed for this study, date of referenced report if not published as a House or Senate Document**), published as House (or *Senate*) Document (number of document), (number of Congress) Congress, 1st (2nd) Session, and other pertinent reports to determine (*whether modifications to recommendations contained therein are advisable at the present time in the interest of*) **OR** (*to determine the feasibility of measures to*).....(*list of problems, desired actions or outputs*)....., and related purposes in the Happyface River Basin, Florida.

This study resolution is provided as a drafting service at your request and should not be construed as representing an Army or Administration position on this proposal.

EXHIBIT 3-2

CEXXXX

DDMMYY

STUDY RESOLUTION FACT SHEET

SUBJECT: (Name of study or study area)

1. LOCATION: (Location: State(s), County(ies), City. Brief description of locality, area, watershed or river basin, including any existing project(s).)

2. PROBLEM DESCRIPTION: (Provide a description of the problem(s) as perceived by local interests. Summarize available factual data that supports the existence of a problem.)

3. NEED FOR STUDY: (Discuss need for and desirability of a feasibility study, including potential outputs/benefits that support Federal interest and non-Federal objectives and purposes.)

4. SCOPE OF STUDY: (Provide recommendations of scope of study, whether to be confined to a locality, particular reach of a stream, or to consider an entire basin.)

5. NEED FOR STUDY AUTHORITY: (Document consideration of the applicability of existing authorities to address the problem or the appropriateness of combining this review with an ongoing study. If use of existing authorities is not appropriate, document viability of a Public Works Committee study resolution based on existing Chief of Engineers/Corps report(s) or need for new study authority (i.e. WRDA).)

6. COST ESTIMATE: (Estimated cost of the follow-on feasibility phase, including schedule, if the results of the expedited reconnaissance phase are positive.)

7. OTHER INFORMATION OR ISSUES: (Any other pertinent information and policy or resource issues that may affect priority or complexity of study.)

ATTACHMENTS

Draft Study Resolution (Proposed resolution that would provide the necessary authority for the desired study.)

Map (a map indicating the location of the study area)

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CHAPTER 4

LEGISLATIVE DRAFTING SERVICES

4-1. Background. USACE honors requests for technical assistance in preparing draft legislation only from Members of Congress, their staff, or staff of congressional committees. This chapter applies to draft legislation on Civil Works matters. A legislative drafting service request may be written or verbal. If in writing, the request may include actual draft language for review, or may include only a description of the desired legislation.

4-2. Importance. Furnishing properly drafted legislation is in the best interest of USACE and Congress. Appropriate coordination and attention to detail is essential. The primary goal in preparing the language is that it accomplishes the intent of the Member. The draft language need not represent USACE desires or Administration positions, and it is made clear to the requestor that the draft legislation is not necessarily supported by the USACE, the Army, or the Administration by having the following statement accompany each drafting service: “The draft legislation is provided as a drafting service at your request and should not be construed as an Army or Administration position on this proposal. Under departmental procedures, the official position on the merits of this legislation will be developed by the Secretary of the Army in response to a request from the chairman of the committee having the legislation under consideration, and then only after coordination with the Office of Management and Budget and other agencies.”

4-3. Notification, Preparation and Clearance.

a. Notification. All requests for a legislative drafting service received by any USACE element are forwarded to the responsible area manager for appropriate team action. A copy of the requesting letter, fax, e-mail, or in the case of a verbal request, a copy of the congressional contact report, which explains the request, is forwarded with the request. (Note: Congressional contact reports are required by Chief of Engineers letter dated 10 Dec 98, Subject: Congressional Contact Database.) When the request for the drafting service is within the responsibility of the office receiving the request, a first draft of the requested legislation is prepared by that office and forwarded with the request.

b. Preparation and Clearance. The team responsible for preparation of legislative drafting services includes the area manager, the team member in Legislative Management Branch, the appropriate member of the Legislative Action team, and the MSC WRDA point of contact on site specific or project related issues. Clearance by the Senior Counsel for Legislation is required before the drafting service is returned to the congressional interest requesting the legislation.

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CHAPTER 5

COMMENTS ON PROPOSED LEGISLATION

5-1. Background. Official, written Army views on bills introduced in Congress are provided whenever the chairman of a congressional committee having jurisdiction makes such a request. Unsolicited Army views on legislation may also be provided to the Committee chair (or the President of the Senate or Speaker of the House, if the bill has been sent to the Floor) whenever such action is determined by the ASA(CW) to be in the interest of USACE.

5-2. Coordination. All requests to any USACE element from a congressional interest for a report on a bill introduced in Congress, testimony on a bill, or related bill language are forwarded to the responsible area manager. The term “report” as used here refers to any written expression of official views on a pending bill (or presentation of testimony on a bill) for transmission to the congressional committee, the President of the Senate, or the Speaker of the House. The team for preparation of the report includes the area manager, the responsible HQUSACE element(s), the team member in the Legislative Management Branch, and the Senior Counsel for Legislation. This team coordinates HQUSACE review of the bill and prepares the draft report. After review and clearance by the Senior Counsel for Legislation, the Director of Civil Works forwards the draft report to the ASA(CW).

5-3. Requirement for Clearance. Whether requested by Congress or initiated by Army or USACE, Army views are provided to Congress only by the ASA(CW) after OMB review and clearance. The purpose of the OMB clearance is to assure that a proposed report has undergone necessary Washington level coordination with other interested agencies and that the comments and recommendations contained in the report are consistent with the President’s policies and programs.

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CHAPTER 6

CONGRESSIONAL HEARINGS

6-1. Background. Congressional committees and subcommittees, in carrying out their legislative and oversight responsibilities for the House and Senate, frequently request the ASA(CW), the Chief of Engineers, the Director of Civil Works, and other USACE officials to appear as witnesses at committee hearings to discuss aspects of the Civil Works programs or projects. The request usually comes in the form of a letter of invitation from the chairman of the committee or subcommittee holding the hearing. The letter states the date, time, location, and topic of the hearing, often specifying the particular area of interest related to the Civil Works program about which the committee wants to hear testimony. Hearings are held on Capitol Hill in Washington, D.C., or at other locations throughout the country. Hearings held at locations other than Washington, D.C. are referred to as “field hearings” and have the same purpose and importance as those on Capitol Hill.

6-2. USACE Priority. Hearing preparations are given high level attention and priority in USACE. In addition to serving USACE as a highly visible opportunity for the agency to report on its activities, hearings are regarded by the congressional committees as vital to Congress in making informed decisions on pending legislation and other issues.

6-3. Management Responsibility. The Legislative Management Branch manages all activities related to authorization and oversight hearings on Civil Works matters and acts as the primary interface for the Office of the ASA(CW), affected offices in HQUSACE, and congressional staff throughout the hearing process unless the principal topic for discussion is primarily budget related. Programs Management Division manages hearings on appropriations and budget related matters.

6-4. Notification Procedures. All USACE elements are responsible for notifying the Chief of the Legislative Management Branch and furnishing a copy of the letter of invitation when requested to testify at a congressional hearing (except on appropriations hearings).

6-5. Management of Hearing.

a. Initial Actions. Upon notification that a congressional committee, other than an appropriations committee, has invited or intends to invite the ASA(CW) or a USACE official to appear as a witness, a hearing manager in Legislative Management Branch is designated to serve as lead for that hearing. If the hearing involves issues directly related to a USACE district, division or other activity, the hearing manager coordinates with the affected field office. The hearing manager obtains as much information as possible from the congressional office arranging the hearing. Available information usually includes the subject and focus of the hearing, issues that committee members are likely to address in the hearing, which members have requested the hearing, which members are likely to attend the hearing, and what other witnesses have been requested to testify.

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b. Selection of a Witness. The hearing manager's discussions with the Office of the ASA(CW), other HQUSACE offices, and USACE field offices focus on the proposed agency position on the subject of the hearing; the content and scope of the testimony; assigning responsibility for testimony preparation; the need for visual aids; potential questions and answers and assigning responsibility for their preparation; and identifying a recommended witness. The ASA(CW) makes the final determination as to who will be Army's witness.

c. Testimony Preparation. The hearing manager is responsible for assuring that assignments for hearing preparation are clearly made, that a schedule for completion of each part of the hearing preparation is made, and that the schedule for the hearing is maintained. The target date for completion of draft testimony is established to allow sufficient time for coordination and review within HQUSACE and the Office of the ASA(CW), timely submittal to OMB for Administration clearance, and timely delivery of copies of the cleared testimony to the congressional committee holding the hearing. The office assigned the task of drafting the testimony prepares a statement that is typically between five and ten double-spaced pages in length. The testimony is in simple, non-technical language, and free of acronyms and jargon. When the hearing manager receives the draft statement, it is provided to pertinent HQUSACE offices for review and comment.

f. Testimony Clearance and Hearing Preparation. The final draft of the testimony is provided to the Office of the ASA(CW) for Army clearance and then, through the HQUSACE Senior Counsel for Legislation, to OMB for Administration coordination and clearance. The Office of the ASA(CW) is responsible for ensuring that agency testimony accurately reflects the views of the Administration and is the lead office, with support from the Senior Counsel for Legislation and the hearing manager, in any negotiations necessary to obtain OMB clearance. Such negotiations often include discussions with commenting agencies. Final clearance of the written testimony is generally not given until OMB has resolved the statements of all testifying agencies, which is frequently very close to the scheduled time of the hearing. Once OMB has cleared the statement for the Administration, the Senior Counsel for Legislation provides any revisions mandated by OMB to the hearing manager. The hearing manager makes any necessary changes to the written statement, the required number of copies of the cleared statement is prepared, and the testimony is provided to the witness and the congressional committee. With the exception of coordination with other testifying Executive Branch agencies, neither draft nor final Army testimony is released outside the Department of the Army prior to the hearing. In addition to the preparation of testimony, the hearing manager is responsible for the preparation of briefing books and management of preparation briefings for testifying officials.

g. Oral Statement. An oral statement, typically no longer than three double-spaced pages and taking no more than five minutes to deliver, is generally drafted by the hearing manager for a Washington level witness or by the field office for a field level witness. Its purpose is to summarize succinctly the written testimony. Since it does not go beyond the scope of the written testimony, the oral statement does not require OMB clearance. Changes to the written testimony to obtain OMB clearance, however, often require last minute changes to the oral statement.

6-6. Tips for Witnesses. A well prepared witness is knowledgeable in both the witness' area of expertise and any known congressional perspective on the hearing subject. A tone of

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frankness, openness and cooperation is to be maintained by the witness. Questions are to be answered clearly and concisely. Members are particularly interested in brevity and are not pleased with answers that talk around, but never get to the heart of an issue. It is perfectly acceptable to say, "I do not know the answer to the question, Mr. Chairman, but I will be happy to furnish the answer for the hearing record." Comments on topics that are outside the scope of the cleared testimony are to be avoided. It is inappropriate to comment on the need for legislation or to provide comments on legislation, which have not been cleared by Army and OMB.

6-7. Post-Hearing Activities. The hearing manager assigns the responsibility for preparing any required post-hearing information for the record and assures that such information is reviewed and approved by the Office of the ASA(CW) and provided to the committee. When the committee makes the hearing transcript available for review, the hearing manager coordinates review of the transcript with relevant USACE offices and the witness. Editing involves checking the transcript for accuracy. Although this process is generally restricted to non-substantive matters, such as grammatical and spelling corrections and minor deletions for correction or for improving clarity, it may include preparation of separate page inserts to cover items promised for the record. When the witness has concurred in all edits, the transcript is provided to the committee's publications editor.