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

CECW-P

Circular
No. 1165-2-206

30 January 2004

EXPIRES 31 March 2006
Water Resources Policies and Authorities
DELEGATION OF REVIEW, APPROVAL, AND SIGNATURE AUTHORITY FOR PROJECT COOPERATION AGREEMENTS
FOR
SPECIFICALLY AUTHORIZED PROJECTS

1. Purpose. This circular provides guidance on the delegated review, approval, and signature authority of Project Cooperation Agreements (PCAs) for specifically authorized projects.

2. Applicability. This circular applies to all HQUSACE elements, Major Subordinate Commands (MSCs) and district commands having Civil Works responsibility. It does not apply to PCAs under the Continuing Authorities Program.

3. Distribution. Approved for public release; distribution is unlimited

4. References.

a. ER 5-1-11, subject: U.S. Army Corps of Engineers Business Process.

b. ER 1165-2-131, subject: Local Cooperation Agreements for New Start Construction Projects.

c. Memorandum, ASA(CW), dated 12 February 2003, Proposed Delegation of Approval Authority for Certain Post-authorization Decision Documents and Project Cooperation Agreements.

d. Memorandum, CECW-ZA, dated 19 December 2002, Proposed Delegation of the Approval of Post-authorization Decision Documents and Project Cooperation Agreements (PCAs).

5. Philosophy. The basis for delegating authority to execute PCAs, as provided for in this EC, is the use of models whenever it is practical to do so. The use of models in the development of individual PCAs should help to streamline project implementation in a

way that also achieves national consistency, policy compliance, legal sufficiency and equitable treatment of project sponsors. While these attributes favor the use of model PCAs, it is also recognized that deviations from the models may be appropriate in certain cases. It is expected that the Project Manager will work collaboratively and expeditiously with the non-Federal sponsor in determining the best course of action, i.e., a model without deviation or a model tailored to address the particular aspects of the project, in conformance with law and policy. District offices are encouraged to coordinate early resolution of modifications to models through the vertical team so that projects can be implemented on schedule.

6. Effective 30 January 2004, review, approval, and signature authority for PCAs and PCA amendments for specifically authorized projects shall be in accordance with subparagraphs a to c below. As new models are developed by HQUSACE and approved by the Assistant Secretary of the Army (Civil Works) (ASA(CW)), any specific delegation instructions for that model will be provided to MSC Commanders.

a. No Deviations from Model. Review and approval authority of PCAs that do not deviate from the approved model is delegated to the MSC Commander. This review and approval authority may not be delegated further below the MSC level.

b. Deviations from Model or No Model. These PCAs and supporting PCA packages shall be forwarded for MSC review and then transmitted, with MSC recommendations, for review by HQUSACE and approval by the ASA(CW).

c. Amendments. Review and approval authority of PCA amendments to PCAs that were approved under delegated authority, and which do not revise model PCA language, is delegated to the MSC Commander. This review and approval authority may not be delegated further below the MSC level. If a PCA amendment proposes revision of model PCA language, that amendment will be reviewed and approved by HQUSACE and ASA(CW). Any amendment involving scope changes to the project will be approved by the organizational level that approved the decision document that supports the change, except that in no event shall the approval level be below the MSC.

d. Signature Authority. The District Commander is authorized to execute each PCA and PCA amendment, including agreements and amendments that require HQUSACE or ASA(CW) approval, provided that the conditions specified in subparagraphs a to c above are met.

7. Notwithstanding paragraph 6.d. of this EC, the ASA(CW) may choose to sign certain agreements. To facilitate this, HQUSACE will periodically provide ASA(CW) a list of

agreements expected to be executed. Based on early coordination with the respective MSC, the HQUSACE MSC Support Teams will provide such information to the ASA(CW) a minimum of 90 days prior to the scheduled execution date for both delegated and non-delegated PCAs and amendments. The ASA(CW) will be notified of all plans for agreement signing ceremonies, regardless of when such plans arise. The ASA(CW)'s decision on agreements to be signed by ASA(CW) will be provided to the respective HQUSACE MSC Support Teams for subsequent coordination with the MSC.

8. The district and MSC responsibilities in the PCA process are described below. A summary of the overall process is at Appendix A.

a. District Responsibilities.

(1) The district project delivery team (PDT) will prepare fully documented PCA packages using the procedures and policies set forth in reference 4.b of this EC to ensure high quality PCA packages in accordance with policy and legal requirements. District Commanders will ensure all PCA packages receive full multidisciplinary review in accordance with the project management business process (PMBP). Further, the District Commanders are responsible for fully documenting and attesting to policy and legal compliance of the PCA package submitted to the MSC. The key to success of these procedures is the district project manager (PM) and PDT having all policy and legal issues identified, addressed and resolved early-on during the development of the decision document.

(2) The PDT, including the District Office of Counsel, will prepare the draft PCA using the appropriate model PCA. If no model PCA is available, the PDT shall coordinate with HQUSACE to determine if an applicable working draft model is available. If no working draft model is available, the PDT should use the structural flood control model as the basis for preparing the draft PCA. Any project issues and/or PCA deviations should be discussed with the MSC for resolution and then with HQUSACE if issues and deviations from the model PCA are required in the final draft PCA. When necessary and appropriate, the PM is encouraged to request vertical team (i.e. District, MSC, HQUSACE, OASA(CW)) assistance early in the draft PCA development process.

(3) After approval of the decision document, completion of NEPA compliance, and dependent upon funding, PCAs without deviations will be forwarded to the MSC for policy and legal compliance review and approval. PCAs with deviations and PCAs where no model exists, will be forwarded to the MSC for review and transmittal to HQUSACE for review and OASA(CW) approval. The transmittal memorandum

to the MSC Commander shall include the District's request for approval and the District Commander's attesting to policy and legal compliance of the PCA package. PCA packages will contain:

(a) Draft PCA

(b) Approved and signed PCA Checklist

(c) Descriptive rationale of all deviations from the approved model

(d) Certificate of Legal Review signed by District Counsel

(e) Federal-Non Federal Allocation of Funds Table

(f) District Commander's Assessment of the Non-Federal Sponsor's Financial Capability

(g) Chief's Report for the appropriate project

b. MSC Responsibilities. The MSCs will establish PCA review procedures and processes to ensure that the districts prepare high quality PCA packages in accordance with policy and legal requirements. For all PCAs, the MSC multidisciplinary team (consisting of, at a minimum, Programs and Project Management Division, Planning and Policy Division, Real Estate Division, and the Office of Counsel) will review the PCA package.

(1) No Deviations from Model. For PCAs without deviations, the MSC shall review the PCA package, provide final certification of legal sufficiency of the PCA, and then approve the PCA. The Division Commanders are responsible for fully documenting their review and approval of PCAs with no deviations from the model. After approval of the PCA, the MSC will notify the District Commander of permission to proceed with execution.

(2) Deviations from Model or No Model. For PCAs that do deviate from an approved model, or no model exists, the MSC shall document its policy and legal compliance review of the draft PCA, PCA Checklist and other parts of the PCA package, offer proposed resolution of deviations, and forward the PCA package to Programs Management Division, Directorate of Civil Works, HQUSACE for review and ASA(CW) approval as appropriate. The MSC transmittal will include a certification by the MSC

Commander that the PCA Checklist (Appendix B) and draft PCA meet policy and legal compliance requirements. PCA packages are not to be forwarded to HQUSACE until the MSC has assured that the PCA Checklist and other parts of the PCA package are complete and are free of errors.

9. Accountability. With more authority comes accountability at the level that authority resides. Each MSC will institute Internal Audit procedures. External Audits will be done by Headquarters Quality Assurance Teams working with the MSC Support Teams. Spot inspections of delegated PCA packages may be done in conjunction with other HQUSACE visits to the field.

a. PCA Checklists. The PCA checklist in use since March 1995 is still required and must be completed and signed for every PCA before the PCA can be approved and executed. Unless all the questions in Section VIII of the PCA checklist can be answered affirmatively, the MSC cannot approve and execute the PCA. These PCAs must be submitted for HQUSACE and ASA(CW) approval.

b. Internal Audits. Each MSC will provide an oversight role and on an annual basis, each MSC Commander will perform a compliance audit of each district's PCAs that have been approved and executed under delegated authority. The results of these annual audits will be reported to HQUSACE no later than 31 October each year.

c. Reports.

(1) List of PCAs to be Executed. Each MSC will provide a list of PCAs to HQUSACE (CECW-B) that each district intends to execute during the following fiscal year by 15 October each year. This list will specifically identify the PCAs that each district intends to approve and execute under delegated authority during that FY. This list will include the model agreement being used, date of the approval of the decision document, date of completion of NEPA compliance, and the proposed date of execution of the agreement. This report will be submitted to the appropriate HQUSACE MSC Support Team.

(2) MSC Annual Internal Audit. Each MSC will prepare an annual report of the results of the required Internal Audit. This report will identify each PCA approved and executed under delegated authority during the FY, any identified weaknesses in the process, and lessons learned or corrective action if appropriate. The report will also identify any PCA intended for delegated authority approval and execution which did not qualify for the procedure and the reason delegated authority approval and execution was not appropriate. This report will be submitted to HQUSACE by 31 October of each year.

d. Records.

(1) Each district and division shall maintain a file on each approved and executed PCA. This file shall contain all component documents of a normal PCA package – PCA, PCA Checklist, Allocation of Funds Table, District Assessment of Financial Capability, Certification of Legal Review, signed approvals of the PCA, the decision document the PCA is based on and any accompanying legal opinions.

(2) Copies of all executed agreements will be provided to CECW-P. These agreements will include those executed under delegated authority and those PCAs that required HQUSACE review and ASA(CW) approval.

e. An Audit Team of CECW personnel may perform audits of MSC files on PCAs approved and executed under delegated authority during staff visits to the MSC.

f. The Engineer Inspector General may be requested to conduct an independent spot check of the MSC activities under these delegation procedures.

FOR THE COMMANDER:

CARL A. STROCK
Major General, USA
Director of Civil Works

2 Appendices
App A – PCA Process
App B - PCA Checklist

APPENDIX A

US Army Corps of Engineers ®

Summary of PCA Process

(refer to EC 1165-2-206 for complete description)

- ASA(CW):
  - Approves models, PCAs w/out approved models & PCAs with deviations from approved models
  - Executes PCA's, unless delegated
  - Signs selected PCAs and attends selected signing ceremonies

- HQUSACE:
  - Develops models
  - Reviews PCAs w/out approved models
  - Reviews PCAs with deviations from approved models
  - Provides oversight and guides process
  - Training and guidance
  - Up-front support—Vertical Team with ASA(CW)/AGC, MSC, District

- MSC:
  - For PCAs with approved models and no deviations from model, certifies PCA for legal sufficiency and approves PCA for signature
  - Invokes Vertical Team assistance on deviations to model language
  - For PCAs w/out approved model and PCAs with deviations from model, documents policy/legal compliance review, proposed resolution of deviations, and prepares final review package to HQs for review and submittal to OASA(CW)/AGC for approval

- District:
  - Prepares PCA and clears issues/deviations in advance with MSC
  - Documents policy/legal compliance

APPENDIX B
PCA CHECKLIST

I. BASIC INFORMATION:

a. Name of Authorized Project: _____

b. Name of Separable Element: _____

c. CWIS Number: _____

d. Project Report Reviewed by OMB: ___Yes ___ No Any special conditions imposed by OMB? ___ Yes ___ No Describe conditions _____

e. Date Chief's Report Transmitted to Congress: _____

f. Authorizing Document: _____

g. Law/Section/Date of Project Authorization:_____

h. Laws/Sections/Dates of Any Post-Authorization Modification:_____

i. PCA Covers: ___ (1) Authorized Project
___ (2) Separable Element
___ (1) or (2) plus (for example Locally Preferred Plan) _____

j. Construction New Start: ___ Budgeted
___ Congressional Add

k. Non-Federal Sponsor(s): _____

l. Project/Separable Element Purpose(s): _____

m. Scheduled date for execution of the PCA: _____

n. Scheduled Advertisement Date: _____ Scheduled Award Date: _____

II. PROJECT DOCUMENTS:

a. Title/Date/Approving Authority of Project Report Supporting PCA: _____

b. Project Management Plan Approval Date: _____

c. Mitigation Authorized: ___ Yes ___ No Cost of Mitigation _____
Describe Type of Mitigation and Whether Included in Project Report and PCA:_____

d. Current M-CACES Estimate: $ ____ Date Prepared and Price Level: _____

e. Section 902 Cost Limit: $ _____ Fully Funded as of 1 Oct FY ____

f. Date of Latest Economic Analysis: _____

g. Current Economics: BCR ____ @ ____ % FY ___
RBRCR ____ @ ____ % FY ___

III. COST SHARING SUMMARY:

Purpose (s)	Non- Fed Cash	Non-Fed LERRD	Non-Fed Const. Credit	Total Non-Fed Share	Federal Share (%)	Total Project Cost
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
Total						

a. Projected Credit for Section 215 Work and Date 215 Agreement Signed: _____

b. Projected Credit for Section 104 or Other Authorized Creditable Work and Date Work Approved by ASA(CW) or Agreement Addressing Work Signed: _____

c. Annual Non-Fed OMRR&R Costs (1 Oct FY _____ Price Levels): _____

d. Source of Non-Federal Funds: _____

e. Source, Amount, & Date of Authorization From Granting Agency for Other Agency Funds (Attach Authorizing Letter): _____

f. Status of Obtaining Funds:_____

g.. Describe Sponsor's Financial Capability (Attach Documentation Required By ER 1105-2-100): _____

IV. FUNDING HISTORY

a. Construction, General or MR&T Construction Budget and Appropriations History for Project/Separable Element:

Fiscal Year	Budget Amount	Appropriated Amount
_____	_____	_____
_____	_____	_____

V. SPECIAL CONDITIONS

a. Sub-agreement Required for Sponsor to Perform: ___Yes ___ No Describe the Sub- agreement and How It Relates to the Sponsor's Requirements Under the PCA _____

b. As Applicable, Describe the Allocation of Costs Among the Multiple Sponsors:_____

c. As Applicable, Describe Special Cost Sharing IAW Section 103(m) or Section 1156, Public Law 99-662: _____

d. List and Provide Cost Estimates For Betterments to be Funded by the Sponsor: ___

VI. REVIEW BY NON-FEDERAL SPONSOR AND ITS COUNSEL

a. Does the non-Federal sponsor concur in the PCA as submitted? ___Yes ___No

b. Has PCA as submitted, including the Certificate of Authority, been reviewed by the non-Federal sponsor's counsel? ___ Yes ___ No

VII. OTHER REQUIREMENTS:

a. Attach current Federal/Non-Federal Allocation of Funds Table Using Format Prescribed by Appendix B, ER 1165-2-131.

b. Notify Affected Congressional Delegation, Including Senators' Offices, Once the PCA Has Been Approved for Signature.

VIII. CERTIFICATION FOR DELEGATED PCA's: YOU MUST ANSWER "YES" TO ALL OF THE FOLLOWING QUESTIONS TO SIGN THE PCA UNDER DELEGATED AUTHORITY.

a. **PROJECT PLAN**

Has the Project Report (Item IIa) been approved by ASA(CW) or other official to which authority has been delegated? ___ Yes ___ No

If there were conditions associated with the approval, have they been resolved with the organizational level attaching the conditions? ___ Yes ___ No

If the project to be described in the PCA deviates from the approved project document plan, was it approved by the approving authority? ___ Yes ___ No

b. **FUNDING**

Have funds to initiate construction been appropriated? ___ Yes ___ No

If funds were added by Congress has guidance been furnished by HQUSACE regarding the scope of the project to be built and any limiting language to be included in the PCA?
___ Yes ___ No

Does the proposal comply with HQUSACE Congressional add guidance? ___ Yes
No ___

c. **AUTHORITY**

Is authority adequate to complete the project as proposed? ___ Yes ___ No

Is the project (GNF cost plus LERRD for navigation projects) cost estimate to be entered into the PCA less than the Section 902 limit (for projects authorized by WRDA 1986 and thereafter)? ___ Yes ___ No

d. **ENVIRONMENTAL COMPLIANCE**

Have all applicable environmental requirements been met and clearances received?
___ Yes ___ No

Dates of Environmental Compliance:

FONSI Signed _____ EIS Filed _____ ROD Signed _____

ESA Sec. 7 Concluded _____ CZM Consistency Determination _____

401 Certification _____ or 404(r) _____ 404(b) (1) _____

Sec 103 MPRSA Eval _____

Sec 106 NHPA (SHPO and/or ACHP) _____ USFWS Coord. Act Rpt. _____

Clean Air Act _____

Have the costs of compliance with the above clearances been adequately defined and included in the project cost estimate to ensure the 902 cost cap is not exceeded and that the sponsor is not required to provide unexpected funds? ___ Yes ___ No

e. **FINANCING PLAN**

Has the Project Manager certified that the sponsor has the funds to share in the project costs as required by the PCA? ___ Yes ___ No

f. **PCA**

Is the PCA in accordance with the model PCA for this type project? ___ Yes ___ No

g. **DISTRICT COUNSEL REVIEW OF PCA**

Has the District Counsel reviewed and approved the draft PCA for legal sufficiency?
___ Yes (Certification included in PCA package submittal) ___ No

IX. PCA NOT DELEGATED FOR APPROVAL: PCA MUST BE SUBMITTED TO HQUSACE FOR ASA(CW) APPROVAL WHEN THERE ARE DEVIATIONS FROM THE MODEL PCA OR THE FOLLOWING APPLY:

a. If the PCA includes any deviation from the approved model, describe and provide the rationale.

b. If the PCA includes any deviation from the approved Project Report, describe them and the reasons why.

c. If there are issues/controversies that must be resolved to enable the PCA to be signed, describe how and when they will be resolved.

d. If the project is a Congressional add and the PCA covers more than the limit of Federal appropriations, describe why and how this can be recommended.

X. AUTHENTICATION:

_____ Date: _____
Project Manager

_____ Date: _____
DDE (PM)

_____ Date: _____
District Commander