

CECW-P

Regulation
No. 1165-2-502

31 March 2014

Resources Policies and Authorities
DELEGATION OF REVIEW AND APPROVAL AUTHORITY FOR
POST-AUTHORIZATION DECISION DOCUMENTS

1. Purpose. This regulation provides guidance on the delegated review and approval process of Post-Authorization Decision Documents. A Post-Authorization Decision Document is a report on a previously authorized project that would serve as the basis for construction funding, or in the case of congressional adds, the report to support the Project Partnership Agreement (PPA).
2. Applicability. This regulation applies to all HQUSACE elements, Major Subordinate Commands (MSC) and district commands having Civil Works responsibility. It does not apply to the Continuing Authorities Program, which has its delegation authority described under separate regulation. This ER does not rescind existing delegations of specific projects or programs previously provided by HQUSACE that allow district commanders to approve certain Post-Authorization Decision Documents. Additionally, the guidance provided under those existing delegations is not affected by this ER. Further, the delegation described in this regulation is contingent upon MSC Commanders demonstrating that the MSC office has adequate resources, qualified planning and engineering staffing, applicable written procedures, and documented adherence to those procedures. This capability is subject to periodic assessment as described herein, and the authority delegated to the MSC Commander can be rescinded at any time at the discretion of the Director of Civil Works.
3. Background. This regulation reflects the Corps responsibility and accountability to produce high quality products that adhere to Civil Works policy. Delegation of approval authority requires the direct oversight of MSC Commanders to ensure resources are available to provide an accountable process that will facilitate the Commander's approval of actions under this delegation. This guidance employs checklists (see ER 1105-2-100, Appendix H, Exhibit H-2) which the PDT will use to ensure a process in policy and legal compliance. In all cases, the checklists are designed to assure early vertical team coordination as issues arise. The responsibilities of delegated approval authority require active participation by senior MSC management to review what the MSC Commander is signing.
4. Distribution. Approved for public release; distribution is unlimited.

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5. References.

- a. ER 5-1-11, U.S. Army Corps of Engineers Project Management Business Process.
- b. ER 405-1-12, Real Estate Handbook.
- c. ER 1105-2-100, Planning Guidance Notebook.
- d. ER 1110-2-1150, Engineering Design for Civil Works Projects.
- e. ER 1110-2-1302, Civil Works Cost Engineering.
- f. Memorandum, CECW-ZA, dated 19 December 2002, subject: Proposed Delegation of the Approval of Post-Authorization Decision Documents and Project Cooperation Agreements (PCAs).
- g. Memorandum, CECW-ZA, dated 24 March 1999, subject: Delegation of Approval Authority for Post-Authorization Decision Documents (rescinded, see paragraph 6. below).
- h. Memorandum, CECW-L/CECW-E, dated 17 November 1992, subject: Development and Approval Process for Project Cooperation Agreements.
- i. Memorandum, CECW-A/CECW-B, dated 27 May 1997, subject: Decision Document and Project Cooperation Agreements for Congressional Adds for Specifically Authorized Projects.

6. Reference 5.g. has been rescinded. Effective 31 March 2004, review and approval authority of Post-Authorization Decision Documents that are in accordance with law and policy are delegated to the MSC Commanders with the exception of dam safety reports and any reports requiring action by the Chief of Engineers, Secretary of the Army (acting through the Assistant Secretary of the Army for Civil Works (ASA(CW)) or specific congressional modification. This approval authority would include any decision document that has all policy issues resolved through coordination with the vertical team, which includes ASA(CW) (Project Planning & Review). Further delegation by the MSC Commander is not authorized.

7. The district commanders are responsible for technical, policy and legal compliance, and for assuring that all public safety aspects of the project's functions have been fully considered and communicated to stakeholders. District commanders will ensure that decision documents will be prepared with full multidisciplinary involvement in accordance with the Project Management Business Process. The district commanders are responsible for the preparation of decision documents utilizing the procedures and policies set forth in the references. The key to success is full compliance with all applicable laws, policies and regulations.

- a. It is critical that all policy and legal issues be identified, addressed and resolved early-on during the development of the decision document. District personnel must be

knowledgeable of Civil Works policies and will prepare the Project Study Issue Checklist (see ER 1105-2-100, Appendix H, Exhibit H-2) early in the project development phase.

Preparation of the Project Study Issue Checklist at the earliest stages in decision document development will facilitate identification and resolution of technical, policy and legal issues with the MSC and the vertical team (i.e., districts, MSCs, HQUSACE RITs, and ASA(CW)). When the decision document is ready to be forwarded for approval it will include the Post-Authorization Decision Document Checklist (see Appendix A). MSCs will ensure that the decision document addresses all items required by the Post-Authorization Decision Document Checklist. This includes ensuring that all policy and legal issues identified through the use of the Project Study Issue Checklist have been coordinated and resolved through the vertical team. If unresolved issues remain, the report must be forwarded to HQUSACE for further action. If no unresolved issues remain, the MSC Commander (in person) is authorized to approve the Post-Authorization Decision Document.

b. The district/MSD Planning leaders are responsible for documenting policy quality control and quality assurance, respectively, for ensuring the resolution of all public safety issues of the project's functions with the district/MSD Dam Safety Officers and for ensuring the resolution of all policy and technical issues. District and MSD counsel will be involved in documenting and ensuring legal sufficiency of decision documents.

8. The district commanders are responsible for fully documenting technical, policy, and legal reviews and compliance of the decision document, as coordinated throughout the study development process. Delegated decision documents will be forwarded to the MSD for review and approval. Non-delegated decision documents will be forwarded through the MSD to HQUSACE for review and approval by HQUSACE, ASA(CW) or Congress, as appropriate. The transmittal to the MSD will include a completed Project Study Issue Checklist and Decision Document Checklist. The transmittal documentation will include the district counsel's legal opinion documenting the authority for all post authorization changes as well as the district counsel's written certification that the report is legally sufficient.

9. MSD Commanders are responsible for ensuring technical, policy and legal compliance and approving delegated decision documents. MSD Commanders will provide on-going technical, policy and legal compliance support. The MSD will establish decision document review procedures and processes that ensure high quality decision documents in accordance with technical, policy and legal requirements. Non-delegated decision documents will be forwarded to HQUSACE with the district commander's documentation of technical, policy, and legal compliance and the MSD Commander's recommendations in fulfilling their Quality Control (QC) and Quality Assurance (QA) responsibilities, respectively. The QC/QA process should be integrated throughout the report development process, and does not constitute a separate policy review from that performed by HQUSACE. MSD Counsel will review the district counsel legal opinion and certification and, as appropriate, provide written concurrence with the opinion and certification or provide direction on actions necessary to bring the report into legal compliance. A report with unresolved legal issues cannot be approved by the MSD Commander under the delegation provided in this ER and must be forwarded to the HQUSACE for further action.

10. Procedures.

a. District Responsibilities. The district will:

(1) Prepare and forward the Project Study Issue Checklist through the MSC to HQUSACE during the early study phase (i.e., within the first 3 months of initiation to identify potential technical, policy, or legal issues and when the tentatively selected plan is identified) or similar project development phase. The district will forward the Project Study Issue Checklist through the MSC to HQUSACE to ensure upward reporting of potential policy sensitive issues for resolution through the vertical team: MSC, HQUSACE, and ASA(CW).

(2) Based on vertical team assistance facilitated through preparation of the Project Study Issue Checklist, develop and finalize the decision document and the Decision Document Checklist.

(3) Forward the decision document and the final Decision Document Checklist to the MSC with the request for approval of the decision document. The district's request for approval will include the district commander's documentation of technical, policy and legal compliance of the report, including the Independent Technical Review (ITR) documentation showing resolution of all issues, in the transmittal to the MSC Commander.

b. MSC Responsibilities. The MSC will:

(1) Review and approve/certify the Project Study Issue Checklist from the district and facilitate resolution of outstanding issues with HQUSACE and ASA(CW), as appropriate.

(2) Review the Decision Document Checklist and delegated decision documents. In the approval of the delegated decision document, the MSC Commander (in person) will certify that the project report meets technical, policy and legal compliance with an affirmative statement. The entire district and MSC documentation record will be placed in the MSC files for audit purposes. Please note that if ASA(CW) is to sign a PPA based upon a MSC approved delegated decision document, then a copy of the approved decision document, together with the Decision Document Checklist, must be included in the PPA submittal package.

(3) Forward non-delegated decision documents to HQUSACE for review and ASA(CW) approval as appropriate. The transmittal will include the district commander's documentation of technical, policy and legal compliance, ITR and peer review documentation, all appropriate checklists, and MSC Commander's recommendations from a quality assurance perspective. These QC/QA roles neither duplicate nor substitute for HQUSACE level policy review.

11. Accountability. Each MSC will institute internal audit procedures for delegated approval of Post-Authorization Decision Documents, and submit these procedures to CECW-P. Spot inspections will be conducted in conjunction with other HQUSACE staff visits.

a. Capability. The MSC office must maintain fully functional planning and engineering staffs to fulfill the requirements under this delegated authority. At a minimum, as part of the broader planning team, the staff will include a GS-15 Planning Community of Practice Leader qualified in planning and policy, and additional GS-14 or higher staff positions in each of the following areas: Plan Formulation, Economics and Environmental.¹ As part of the broader engineering team, the staff will include (at a minimum) a GS-15 Engineering Community of Practice Leader and appropriate GS-14 or higher staff members who are qualified in water resources engineering (including risks to public safety) and civil works policy. The MSC must also assure that there are appropriately qualified district study teams involved in preparing, reviewing, and recommending the products. Fundamental to this process is a requirement that MSC Commanders ensure that the individual performance standards for officials involved in the review and approval process, at both the district and MSC levels, reflect the corporate responsibility we have to adhere to policy, law and providing public safety.

b. Checklists. The Project Study Issue Checklist and Decision Document Checklist are required and must be completed and signed on every project before the Post-Authorization Decision Document can be approved. Until all the issues in the checklist have been resolved, the MSC cannot approve the decision document. In such instances where there are unresolved issues, the decision document must be submitted for HQUSACE and/or ASA(CW) approval as appropriate. Checklists are also required for Post-Authorization Decision Documents requiring action by HQUSACE, ASA(CW), or Congress.

c. Internal Audits. Each MSC has an on-going oversight role in addition to their approval role for delegated decision documents. On a fiscal year basis, each MSC Commander will report to HQUSACE each Post-Authorization Decision Document approved under delegated authority the previous year and perform a compliance assessment of use of delegated authority to approve Post-Authorization Decision Documents. The report will identify any Post-Authorization Decision Documents intended for delegated authority approval which did not qualify and the reason delegated authority approval was not appropriate. The assessment should address lessons learned and any corrective actions needed in order to foster intra-MSD and HQUSACE process improvements, nationwide. The report and the results of these audits will be reported to HQUSACE within 60 days of the end of the fiscal year. HQUSACE will forward the report to ASA(CW).

d. ASA(CW) Audits. Based on the results of the annual Corps audit, ASA(CW) may identify a selected number of projects and ask that the entire approval package (i.e., the decision document, ITR, review documentation, legal certification, checklists, and all approvals) be forwarded to ASA(CW) for a review to ensure the appropriate use of the delegation authority.

¹ The grade structure in Pacific Ocean Division may be lower due to the size of the Civil Works program in that MSC.

e. List/Records.

(1) List of Post-Authorization Decision Documents to be approved. Each MSC will provide to the appropriate HQUSACE RIT and ASA(CW) a list of Post-Authorization Documents each district anticipates to be approved under delegated authority during the fiscal year within 60 days of the issuance of the Conference Report. This list will specifically identify the Post-Authorization Decision Document that each district intends to approve under delegated authority during that fiscal year. This list will include the date of the approval of the original decision document, who approved (MSC, Chief, ASA(CW) or Congress) the document and the date it was approved, and the proposed date of approval of the Post-Authorization Decision Document.

(2) Records. The division will maintain a file on each Post-Authorization Decision Document approved under delegated authority. This file will document all actions and contain all component items supporting the Post-Authorization Decision Document package including signed approvals of the Post-Authorization Decision Document, and the original decision document the Post-Authorization Decision Document is based upon. This includes all accompanying documentation relevant to the decision including the district commander's documentation of technical, policy and legal compliance, ITR and peer review documentation, all appropriate checklists, and MSC Commander's recommendations from a quality assurance perspective.

f. An Audit Team of CECW personnel will perform audits of MSC files on Post-Authorization Decision Documents approved under delegated authority during staff visits to the MSC.

g. The Engineer Inspector General may be requested to conduct periodic, independent spot checks of MSC activities under the delegated authority procedures.

FOR THE COMMANDER:



R. MARK TOY, P.E.
Colonel, Corps of Engineers
Chief of Staff

APPENDIX A
Post-Authorization Decision Document Checklist

I. BASIC INFORMATION:

- a. Name of Authorized Project: _____
- b. Name of Separable Element: _____
- c. PWI Number: _____
- d. Authorizing Document: _____
- e. Law/Section/Date of Project Authorization (attach copy to checklist): _____
- f. Laws/Sections/Dates of Any Post-Authorization Modification: _____
- g. Non-Federal Sponsor(s): _____
- h. Project/Separable Element Purpose(s): _____
- i. Congressional Interests (Senator(s), Representative(s) and district(s)): _____

II. PROJECT DOCUMENTS:

- a. Type of Decision Document: _____
- b. Approval Authority of Decision Document: _____
- c. Project Management Plan Approval Date: _____
- d. Independent Technical Review (ITR) Approval Date: _____
- e. Mitigation Authorized: ___ Yes ___ No Cost of Mitigation: _____
Describe type of mitigation and whether included in project report:
(Note: Project report is the one that supports the authorization for the mitigation.
Ensure that mitigation is authorized as part of the project cost)
- f. Current M-CACES Estimate: \$_____ Date Prepared and Price Level: _____
- g. Section 902 Cost Limit: \$_____ Fully Funded as of 1 Oct FY_____
- h. Date of Latest Economic Analysis: _____
- i. Current Economics: BCR _____ @ _____ % FY (Note: list period of analysis)
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
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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): _____

IV. FUNDING HISTORY

Appropriations History for Project/Separable Element:

<u>Fiscal Year</u>	<u>Budget Amount</u>	<u>Appropriated Amount</u>
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V. CERTIFICATION FOR DELEGATED DECISION DOCUMENTS: YOU MUST ANSWER “YES” TO ALL OF THE FOLLOWING QUESTIONS TO APPROVE THE DECISION DOCUMENT UNDER DELEGATED AUTHORITY.

a. PROJECT PLAN

Has the project study issue checklist (ER 1105-2-100, Appendix H, Exhibit H-2) been completed and all issues resolved?

YES___ NO___. (Note: Is the project the same as contained in the project report supporting authorization; if not, is it within the 902 limit, who has the authority to allow the change by regulation...district, MSC, Chief, Congress)

Does the non-Federal sponsor concur in the project plan as submitted?

YES___ NO___.

Has project plan as submitted been reviewed and concurred in by the non-Federal sponsor’s counsel? YES___ NO___.

b. AUTHORITY

Has authority been delegated to the MSC for approval of the project report?

YES___ NO___.

Is authority adequate to complete the project as proposed? YES___ NO___.

c. POLICY/LEGAL/TECHNICAL COMPLIANCE

Has the district counsel reviewed and approved the decision document for legal sufficiency?

Yes (Certification included in decision document package submittal) ____ NO ____.

Have all aspects of ITR been completed with no unresolved issues remaining?
YES ____ NO ____.

Has the district commander documented policy/legal/technical compliance of the decision document? YES ____ NO ____.

Has the MSC certified the policy/legal/technical compliance of the decision document? YES ____ NO ____.

VI. AUTHENTICATION

_____	Date: _____
Project Manager	
_____	Date: _____
Chief, Planning Division	
_____	Date: _____
District Counsel	
_____	Date: _____
DDE (PM)	
_____	Date: _____
District Engineer	
_____	Date: _____
MSC Planning and Policy CoP Leader	
_____	Date: _____
MSC Counsel	
_____	Date: _____
MSC Commander	

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