

How to Plan a Water Resources Project With the US Army Corps of Engineers

A Guide for Tribal Governments

USACE Tribal Nations Program

2017

3rd Edition



**US Army Corps
of Engineers®**



Tribal Nations Program

U.S. Army Corps of Engineers (Corps) has a variety of authorities that allow the agency to partner with Tribal Nations. Projects can range from stream bank restoration to cultural resources surveys. Each of our authorities is unique in addressing services generally with a water resource nexus.

The Corps' Tribal Nations Program developed this booklet to assist Federally-recognized Tribal governments with the basics on how to develop a water resources project with your local Corps District.

In order to help streamline communication, each Corps District has a Tribal Liaison that can provide assistance and ensure that your Tribe is working with the right people. We honor your sovereignty and value your time and we are more than happy to come to meet with your Tribal leadership and discuss how our programs and authorities can meet your Tribe's particular needs.

As an added resource for Tribes, the Corps has created a Tribal Nations Technical Center of Expertise available to provide support and technical resources for Tribes seeking to develop projects authorized under Corps authorities. The Tribal Nations Technical Center of Expertise offers cost-reimbursable services which align Corps programs and authorities with the appropriate Districts and expertise. This further helps eliminate obstacles that would hinder Corps/Tribal partnerships.



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The Bird's Eye View

The Corps partners with many Tribes on water resources and related projects. Some of these partnerships have resulted in innovative collaborations on current issues and others address long-standing concerns.

Briefly, this is what is required:

Identify the issue. This is your project. The Corps has learned that we need your knowledge and perspectives on local conditions, ecosystems, and terrain to develop better projects. We have much to learn from your oral histories, traditional ecological knowledge and your collective expertise.

Call and then write to your local Corps District office. The Tribal Liaison is a great place to start. You can find a list of contact information on page 22. The head of Planning or Programs is also a good choice. The District office can work with you to identify the appropriate authority and project expertise to develop the project.

Enlist support of stakeholders and interested parties.

Enlist the aid of Co-sponsors if the project involves others and identify funding sources.

Feasibility Cost Share Agreement signed between the Tribe and the Corps prior to initiation of all studies.

Visit: <http://www.usace.army.mil/Missions/Civil-Works/Project-Partnership-Agreements/>

It is likely that this overview raises more questions than it answers. There are individuals with great expertise waiting to assist and work with you.



Examples of successful partnerships include the ongoing Walla Walla River restoration efforts with the Confederated Tribes of the Umatilla Indian Reservation, and along the Rio Grande with the Pueblos of Santa Ana, San Ildefonso, Ohkay Owingeh and Santa Clara.

Corps Authorities & Programs

Tribal Partnership Program

This authority allows the Corps to carry out water-related planning activities, and activities related to the study, design, and construction of water resources development projects. Authorized activities to be studied include: projects for flood damage reduction, environmental restoration and protection, and preservation of cultural and natural resources; watershed assessments and planning activities; and other projects as the Secretary determines to be appropriate.

Cost share:

- * 75% Federal / 25% Non-Federal (watershed assessments)
 - * 50% / 50% (Feasibility and water-related planning activities)
- However, in-kind contributions are allowed.

Authority: Section 203 of WRDA 2000, as amended

Individually Authorized Studies & Programs

This is the most common form of Corps partnership. The agency jointly conducts a study with the sponsor, and if shown feasible, constructs or implements the project. This approach requires that Congress provide a specific authorization for the study and a second for the construction and implementation phase. These projects are normally listed in sections of WRDA, but are usually referred to by their names instead. For example, Section 455 of WRDA 2000 is known as Chickamauga Lock and Dam, Tennessee.

Flood Risk Management Services Program

Allows the Corps to provide non-Federal partners with flood hazard information, technical services and planning guidance. First \$100,000 free of charge; larger projects may be cost shared.

Continuing Authorities Program: The purpose of the program is to plan and implement projects of limited size, cost, scope, and complexity in an accelerated manner as compared to traditional specifically authorized projects. For the majority of the Sections, the Feasibility phase may be initially Federally funded up to \$100,000. Any feasibility phase costs in excess of \$100,000 will be shared 50% Federal / 50% Non-Federal sponsor.

Please review each CAP authority to better understand the cost share.

Aquatic Ecosystem Restoration

Improves and restores aquatic ecosystems in a cost-effective manner to improve the environment and add value to the public. Feasibility phase may be initially Federally funded up to \$100,000.

Cost share:

- * 50% Federal / 50% Non-federal (Feasibility phase)
- * 65% Federal / 35% Non-federal (Design & Construction)

Example: Pueblo of Zia ecosystem restoration on the Rio Jemez, New Mexico

Authority: Section 206 of WRDA 1996, as amended

Emergency Stream Bank & Shoreline Erosion

Provides emergency stream bank and shoreline protection to prevent damage to public facilities such as roads, bridges, hospitals, schools and water treatment plants. Feasibility phase may be initially Federally funded up to \$100,000.

Cost share: 65% Federal /35% Non-federal

Authority: Section 14 of the Flood Control Act of 1946, as amended

The Corps partners with non-Federal sponsors on a variety of projects across all of our mission areas. Depending on the type of project, there may be an existing authority (legislation) to do work. If not, specific authorization from Congress is needed. Sections mentioned, such as 1135, are sections of WRDA authorization laws. A program or project authorized under WRDA continues to be known by the section of the bill in which it was originally enacted. For example, the Tribal Partnership Program (Section 203) was authorized in WRDA 2000. It was amended as Section 2011 of WRDA 2007, but continues to be known as Section 203.

Corps Authorities & Programs

Flood Damage Reduction

Modifications to infrastructure to provide protection from frequent or recurring flooding; planning and construction of flood control works such as levees, channels and dams. Feasibility phase may be Federally funded up to \$100,000.

Cost share: 65% Federal /35% Non-federal

Example: Pueblos of Cochiti and Santa Clara following wildfire damage to watershed

Authority: Section 205, Flood Control Act of 1948, as amended

Hurricane and Storm Damage Reduction

Provides protection or restoration of public shorelines by the construction of revetments, groins and jetties. Feasibility phase may be initially Federally funded up to \$100,000.

Cost share: 65% Federal /35% Non-federal

Authority: Section 103, Rivers and Harbors Act of 1962, as amended

Navigation Improvements

Projects include dredging of channels, widening of turning basins and construction of navigation aids. Feasibility phase may be initially Federally funded up to \$100,000.

Cost share: 50-90% (depending upon type of project)

Authority: Section 107, Rivers and Harbors Act of 1960, as amended

Project Modification for Improvement to Environment

Projects modify existing structures and operations of Corps facilities with the primary goal of improving the environment or when a project has contributed to the degradation of environmental quality. Feasibility phase may be initially Federally funded up to \$100,000.

Cost share: 75% Federal /25% Non-federal

Example: Used extensively by Tribes to restore the bosque along the Rio Grande

Authority: Section 1135 of WRDA 1986, as amended

Emergency Operations Program

In cases when disaster exceeds Tribe, state or community capabilities, the Corps can provide additional assistance at the affected group's request. In situations with an immediate threat to life and property, Tribes and local communities should work with state emergency response agencies who can contact the Corps.

Two laws govern our role in emergency operations:

PL 84-99 (Flood Control and Coastal Emergency Act) and the Stafford Act (Stafford Disaster Relief and Emergency Assistance Act of 1974). FEMA is the lead Federal agency under the Stafford Act.

Tribes may come directly to the Corps if the Tribe has declared a disaster. Temporary protection works are 100% Federal; more permanent works are cost shared 65% Federal /35% Non-federal.

The local Corps emergency operations office can give you more information.

Native American Lands

Environmental Mitigation Program

NALEMP is a Department of Defense Program managed by the Corps using cooperative agreements with Federally recognized Tribes to remediate contamination caused by the military when lands were appropriated for its use.

Tribes are commonly funded to perform the clean-up through a cooperative agreement with DoD.

Planning Assistance to States & Tribes

Many Tribes have used this authority successfully. In cooperation with a Tribe or State, the Corps offers technical planning services in support of creating a comprehensive water resource strategy for the development, use and conservation of water and related land resources.

Cost share: 50% Federal /50% Non-federal

Authority: Section 22 of WRDA 1974, as amended

Corps Authorities & Programs

Regulatory Program

The Corps regulates various activities affecting certain water resources under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, including any work that modifies a navigable water of the United States, and placing dredged or fill material into any waters of the United States, including wetlands. Such activities require Corps permits even on private and Trust lands.

There are individual authorities for specific projects or programs that are inserted into WRDAs by Congress as a result of requests from constituents. Some of these apply exclusively to Tribes. For example, Section 520 of WRDA 1999 authorizes the Corps to provide technical, planning and design assistance for watershed management, restoration and development on the Navajo Nation in AZ, NM and UT.

There are other authorities that can be of help. Visit: www.planning.army.mil/toolbox. Also, get to know your Tribal Liaison, the planners and project managers at the nearest Corps District. They can help you get all the information available on the web.

International & Interagency Support (IIS)

A 100% reimbursable program that can use funds from other Federal agencies, such as HUD, to construct projects in Indian Country.

Cost Sharing with the Corps

All Corps Civil Works programs require local sponsors to contribute resources, or 'share costs' to pursue a project. Cost sharing began with the passage of the WRDA of 1986. The amount of cost share varies, depending on the particular type of action and the authority under which the project is conducted.

Typically local sponsor cost share varies between 25 and 50 percent. In other words, you, as a local sponsor, may leverage your resources two, or in some cases, three-to-one. Local sponsor contributions usually, but not always, are in the form of cash.

Many Corps authorities, however, permit sponsors to use 'Work-in-Kind' as a means of fulfilling project financial obligations. This means substituting labor, studies or materials for cash. In some cases, funding from other Federal sources may be used by local sponsors for Corps projects. For example, funds provided to Tribes under Section 638 of the Indian Self-Determination and Education Assistance Act are always considered eligible to be used as cost share.

Similarly, if the Tribe receives permission from the originating Federal agency, Federal funds are also eligible. Contributions from third parties who might benefit from a project may also be used to meet project financial obligations.

Bottom Line - Corps programs require local sponsor contributions to finance the project. However, your Tribe has several options available to meet those financial obligations.

How to Start a Project

Project Initiation Phase

Identify Challenge

Your Tribe identifies a water resources related study or challenge. Below are a list of selected examples:

- Stream bank erosion
- Floodplain mapping
- Traditional Cultural Property surveys
- Watershed Management Plans

Get in Contact

Your Tribe's executive leadership or other responsible Tribal officer contacts the Commander of your local Corps District requesting assistance in addressing your problem. Initial contact may be by phone or email, but an official letter on Tribal stationery is essential for consideration. Your letter should very briefly describe the specific problem and request assistance for the Corps in addressing the issue. For a sample letter, see page 18.

As the local sponsor (the partner), your role changes throughout the project. In addition to participating in meetings, helping in the preparation of project documents, acquiring the necessary real property and making joint decisions, the sponsor will have specific tasks at each stage of the project.



Generate Support



Make sure to generate support from Stakeholders and other partners on behalf of your project.

Congressional awareness of your project is advisable.

It is essential to understand the two separate legislative processes that create a successful Corps' project: authorization and appropriations.

For more information on these critical processes, see page 23.

The local District Commander or his/her staff will respond to your request by asking for an initial meeting with you to gain specific information about the problem to determine the type of assistance you are seeking. At this meeting, a Corps representative will identify potential constraints or opportunities in developing your project. If following these discussions we receive the approval from your Tribe, and if funds are appropriated by Congress, we move to the next phase.



Project Worksheet:

Project Description:

Nature of the problem (water quality/quantity, water supply, flooding, erosion, infrastructure, ecosystem degradation, etc.), location, size of the affected area or population, etc.

Constraints:

Permits, regulations, easements, cultural sensitivity, other(s)

Available Tribal staff:

Administrative, management, technical, contractors, other(s)



Tribal Governmental Process:

Leadership and Tribal Council involvement, needed Tribal Resolutions

Potential Partners:

Other Federal, state, or local governments that could also benefit

Potential Funding Sources:

Federal or state programs that could provide support to your Tribe's In-Kind Contributions or otherwise offset cost share obligations

Checklist:

- Project Description
- Identify Tribal Liaison
- Letter of Intent
- Follow-up phone call
- Identify Corps Project Authority
- Meeting with Corps
- Identify Tribal Project Manager
- Identify Project Delivery Team
- Identify Financial Resources
- Schedule Administration/
Tribal Council briefings
- Feasibility Cost Share Agreement
approval and signatures

Notes:



Sample Technical Assistance Letter



ZEOK TRIBE

360 Zeok Boulevard ▲ Post office Box 1925 ▲ Zeok, CA 95999

November 15, 2008

Zeok Tribe
360 Zeok Blvd,
P.O. Box 1925
Zeok, CA 95999

Mr. Jim Joyce
Corps of Engineers Flood Plain Management Services Program Coordinator
U. S. Army Corps of Engineers, San Francisco District
1455 Market Street, Mailstop
San Francisco, CA 94103

Dear Mr. Joyce

This letter is in reference to the Flood Plain Management Services (FPMS) Program. The Zeok Tribe understands that Section 206 of the Flood Control Act of 1960, as amended, authorizes the Corps of Engineers to provide a range of technical services and planning guidance that is needed to support effective flood plain management. The Zeok Tribe, Federally Recognized Native American Indian Tribe, located in Northern California is requesting technical assistance in data collection and planning in preparation for the upcoming dam removal project on the Chewy River.

Soon the Chewy River will be the epicenter of one of the largest restoration projects in U.S. history, as the tribe and others embark on the removal of five major dams in 2020. Understanding how the removal of these major dams will affect the flood plains and key infrastructure along the Chewy River is critical for the Zeok people. Baseline data collection including: topographic, hydraulic, and geomorphic analyses is vital to evaluate the effects of dam removal and how the Chewy River and its resources will evolve over time.

The Zeok Tribe would like to engage in a collaborative partnership with the Corps of Engineers on a Flood Plain Study and baseline data collection effort on the Chewy River. A wealth of information regarding the Chewy Sam Removal can be found at the following website:

<http://www.zeokrestoration.gov> or <http://www.chewyrenewal.org/resources/>

Upon your review of this initial request, we would like to discuss the availability of information and funding, required schedule, and level of effort required to accomplish this Flood Plain study and data collection effort. Please contact Salvatore (Sam) Messina, Senior Civil Engineer at sammessina@zeoktribe.msr.us or 800-928-X0C3.

Best Regards,

Lorenzo Quinn
Zeok Tribal Chairman

360 Zeok Boulevard ▲ Post office Box 1925 ▲ Zeok, CA 95999



Tribal letterhead

Contact information is essential

Addressee

This should be addressed to the District Commander, or if not known, to the Chief of Planning, Tribal Liaison, or other District employee known to the Tribe.

Contents

The letter should reference the project if already described in a meeting with Corps employees. A brief but concise description is fine. Additional detail can be provided in attachments or web links.

Authority

The letter should be signed by the proper tribal authority where appropriate.

Always follow your letter with a call!

Authorities versus Appropriations



Authorization refers to the requirement that Congress 'authorize' or assign responsibility for a particular area of Federal interest to the Corps.

A project or program is authorized if Congress decides it falls under our jurisdiction, whether it is a very large and complex program, like the Florida Everglades, or a small project like armor-ing a stream in Kansas to prevent erosion.

Authorizations for Corps projects and programs normally appear in a series of recurring laws known as Water Resources Development Acts (WRDA).

These Acts are developed by the House Committee on Transportation and Infrastructure (T&I) or the Senate Committee on Environment and Public Works (E&PW).

Generally, WRDA bills are developed every other year by Congress.

Authorizations for Corps projects and programs normally An appropriation assigns funding to the Corps to carry out the activities Congress has authorized.

Appropriations are made annually through the Energy and Water Appropriations Bill through the House and Senate Subcommittees on Energy and Water within the Appropriations Committees of both chambers to fund all Corps Civil Works programs.

The amount of funding allocated to a specific program is completely at the discretion of Congress.

It is important to remember that both of these congressional activities are distinct, and each is carried out by different congressional committees with different schedules.

In some cases, authorized projects may lack the appropriations necessary to implement your project.



Calendar No. 120
114TH CONGRESS
1ST SESSION
H. R. 2578
20
[Report No. 114-66]

IN THE SENATE OF THE UNITED STATES
JUNE 8, 2015
Received, read twice and referred to the Committee on Appropriations
JUNE 16, 2015
Reported by Mr. SHELLEY, with an amendment
(Strike out all after the enacting clause and insert the part printed in italic)

AN ACT

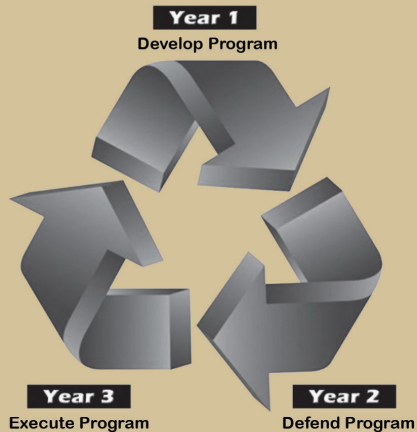
Making appropriations for the Departments of Commerce and Justice, Science, and Related Agencies for the fiscal

USACE District Offices

| | |
|-----------------------------|----------------|
| Anchorage, Alaska: | (907) 753-2504 |
| Albuquerque, New Mexico: | (505) 342-3431 |
| Baltimore, Maryland: | (800) 434-0988 |
| Buffalo, New York: | (800) 833-6390 |
| Charleston, South Carolina: | (843) 329-8000 |
| Chicago, Illinois: | (312) 846-5330 |
| Concord, Massachusetts: | (978) 318-8220 |
| Detroit, Michigan: | (888) 694-8313 |
| Forth Worth, Texas: | (817) 886-1306 |
| Galveston, Texas: | (409) 766-3004 |
| Honolulu, Hawaii | (808) 835-4004 |
| Huntington, W. Virginia: | (304) 399-5211 |
| Jacksonville, Florida: | (904) 232-2568 |
| Kansas City, Missouri: | (816) 389-2000 |
| Little Rock, Arkansas: | (501) 324-5551 |
| Los Angeles, California: | (213) 452-3966 |
| Louisville, Kentucky: | (502) 315-6107 |
| Memphis, Tennessee: | (901) 544-4109 |
| Mobile, Alabama: | (251) 690-2511 |
| Nashville, Tennessee: | (615) 736-7161 |
| New Orleans, Louisiana: | (504) 862-2201 |
| New York, New York: | (917) 790-8007 |
| Norfolk, Virginia: | (757) 201-7500 |
| Omaha, Nebraska: | (402) 995-2229 |
| Philadelphia, Pennsylvania: | (215) 656-6515 |
| Pittsburgh, Pennsylvania: | (412) 395-7500 |
| Portland, Oregon: | (503) 808-5150 |
| Rock Island, Illinois: | (309) 794-4200 |
| Sacramento, California: | (916) 557-7490 |
| San Francisco, California: | (415) 503-6702 |
| Savannah, Georgia: | (800) 448-2402 |
| Seattle, Washington: | (206) 764-3690 |
| St. Louis, Missouri: | (314) 331-8000 |
| St. Paul, Minnesota: | (651) 290-5807 |
| Tulsa, Oklahoma: | (918) 669-7366 |
| Vicksburg, Mississippi: | (601) 631-5000 |
| Walla Walla, Washington: | (509) 527-7020 |
| Wilmington, North Carolina: | (910) 251-4625 |

The Corps' Budget Cycle

The Corps gets funding for its civil works program through the Federal budget cycle. This cycle spans a 20 month period and overlaps with one execution cycle.



What this means is that the budget under development in any given year will not be executed until two fiscal years later. In other words, Corps programmers juggle three different budgets in one year. Understanding this budget sequence is critical to the successful implementation of your project for a couple of reasons.

First, it will be extremely rare for funds to be immediately available to start your project. Funding for specific projects will typically not be available for two years from the time you approach the Corps for assistance. If the action you require is one of critical immediate need, it is unlikely that Corps programs will work for you, unless the activity is emergency in nature.

Second, as we discuss in more detail in the next section, Corps' programs require the sharing of project costs by you, the project sponsor. Project execution is greatly facilitated by coordinating the timing of your community's budget process with that of the Federal government.

If you as the project's local sponsor are able to take a long-term approach, working with the Corps can be an efficient, disciplined method of leveraging limited community resources.



Uselinks & Contacts

The U.S. Army Corps of Engineers

<http://www.usace.army.mil/>

Under the Corps Castle, click on **About**, then click on **Locations**. Click on your location and the homepage of the District that has responsibility for your area will appear.

Contact Us always appears on the District's home page. You can find the main phone number here, mailing address, or the email address of the **Public Affairs Office**. Most home pages have directories. Some have names, and all have offices, such as Planning or Operations, listed.

If you have no point of contact at the District, ask for the **Tribal Liaison** or the **Planning** office.

Corps of Engineers Tribal homepage

http://usace.army.mil/cecw/Tribal_Issues/Pages/Article_Template.aspx

From the main website, click on **About Us**, then **Headquarters Offices**, then **Tribal Issues**.

Most of the information presented in this booklet can be found on the page entitled **Planners' Library**:

<http://usace.army.mil/cecw/Planning/COP/Pages/planlib.aspx>