APPENDIX B

Public Involvement, Collaboration and Coordination

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APPENDIX B

Public Involvement, Collaboration and Coordination

B-1. Purpose. This appendix provides the requirements for public involvement, collaboration, and coordination in Civil Works planning studies. (Note: Every effort has been made to eliminate all inconsistencies between the main body of the ER and the appendices. If any inconsistencies are found, the information in the main body of the ER will prevail over the one in the appendices. Please, notify CECW-PD immediately of any inconsistencies for correction.)

B-2. Definitions.

a. Public. The public includes any individuals, organizations, or unit of government that might be affected by or interested in the results of the Corps planning process. The public includes Federal, regional, State and local government entities and officials, public and private organizations, Native American (Indian) tribes, individuals, and study sponsor representatives.

b. Coordination. Coordination is the formal exchange of information and views, by letter, report, meeting or other prescribed means, between the Corps and another agency. Coordination activities are required by and in accordance with purposes and procedures established by Federal policy (Public Law, executive order, agency regulation, memorandum of agreement, etc).

c. Collaboration. Collaboration occurs when the Corps works jointly with other agencies or entities throughout the planning process. Collaboration is distinguished from coordination through the active involvement of the parties in conducting studies and or implementing recommended projects. Collaborative efforts can range from participation on interagency study teams through joint funding of construction, operation or maintenance of water resource projects.

B-3. Goal and Objectives. The goal of public involvement and coordination is to open and maintain channels of communication with the public in order to give full consideration to public views and information in the planning process. The objectives of public involvement are 1) to provide information about proposed Corps activities to the public; 2) to make the public's desires, needs, and concerns known to decision-makers; 3) to provide for consultation with the public before decisions are reached; and, 4) to consider the public's views in reaching decisions. All this must occur, however, with the awareness that the Corps cannot relinquish its legislated decision-making responsibility. The outcome of any planning is subject to institutional constraints.

B-4. Requirements. District offices shall conduct planning studies in an open atmosphere to attain public understanding, trust, and mutual cooperation and shall provide the public with opportunities to participate throughout the planning process. In addition, each district office shall:

- Develop and implement an effective public involvement strategy as an integral part of the planning process for each study.

- With the cooperation of the non-Federal sponsor, develop and implement an effective management structure to insure that effective collaboration is an integral part of the feasibility study process.

- Discuss in the report how information gained from public and sponsor involvement has been used in and influenced the planning process.

- Solicit comments on the draft report and environmental document to appropriate Federal and State agencies, cooperating agencies and other members of the public (ER 200-2-2).

B-5. Public Involvement Strategy.

a. Maximize Public Input. Each project should have a detailed public involvement strategy that is keyed to maximize public input at each stage of the planning process.

b. Administrative Procedures. The Administrative Procedures Act, (including Section 3, the Freedom of Information Act) and the National Environmental Policy Act (PL 91-190), are among the principal legislative acts requiring public involvement. Federal planning policies, Corps practice, and regulations have consistently required and encouraged open and effective public involvement. Generally, it is impossible to plan effectively for water resources development in accordance with Federal regulations and laws without open and effective public involvement. Public involvement is integral to all phases and activities of the planning process.

c. Developing a Strategy. During the development of the Project Management Plan, the study team determines the extent of public involvement required and establishes an appropriate strategy for integrating public involvement into the planning process. Since there is no single best approach to public involvement, the study team should determine the best mix of public involvement methods. The important point to keep in mind is to provide an overall strategy that creates relevant, quality public involvement opportunities for those who have; or may have, an interest in the study. The purpose of initiating public involvement early in planning is to obtain a clear definition of public needs and concerns. Early involvement also provides a "sensing" stage during which an appraisal is made of the intensity of public interest, the segments of the public most likely to participate, and the kinds of issues which are most likely to generate additional public interest.

(1) Components of a Strategy. A public involvement strategy should include:

(a) An analysis of the major issues likely to be addressed in the planning process.

(b) An identification of agencies, groups, and individuals most likely to be interested in the action under consideration.

(c) An assessment of the level of public interest likely to be generated by the actions under consideration.

(d) A description of the preliminary consultation activities that led to development of the public involvement approach, including the agencies, groups, and individuals consulted.

(e) An identification of the public involvement expertise and effort that may be needed from various organizational units.

(f) Determination of appropriate review points at which to evaluate the structure and function of the public involvement program.

(g) A plan of sequential public involvement activities integrated with the planning and decision-making process, and development of planning reports.

(2) Major Public Involvement Activities

(a) Announce the Initiation of the Study. The public should be informed when a study is initiated. Announcements can be done through any of the communications media, but it is suggested that, at a minimum, a mailing of an announcement be made to potentially interested parties. The mailing method insures that at least those on the list have been made aware of the study initiation. If other media methods (such as TV, radio, newspapers, etc.) would be productive, they should also be pursued through coordination with the public affairs officer.

(b) Identify the Public. The Corps should be sensitive to public concerns and identify interested and affected parties including those who might be unaware of an action that could be of concern to them. Identifying publics is crucial both initially and throughout the planning effort. A starting point is to identify those people and groups who believe themselves to be affected by possible study outcomes. Three ways are typically used to identify publics: self-identification, third party identification, and staff identification. Self-identification means that individuals or groups step forward and indicate an interest in participating in the study. Third party identification is a technique in which existing committees, interest groups, or representatives of known interests are asked to identify other individuals or interests who should be involved. Staff identification comprises a wide range of techniques including intuitive/experiential information, existing lists of groups and individuals, and geographic, demographic, and historical analysis. The nature of the planning study will determine who should be contacted. As a starting point, the following organizations, among others, should be considered: Environmental/Conservation groups; civic and neighborhood associations and community leaders; other Federal, State and local public agencies and entities; user groups; consumer and public interest groups; religious and ethnic groups; business

groups, including small businesses and merchants; civil rights organizations; labor organizations; and, organizations representing the handicapped, the elderly, low income segments of the population, the minorities, and the disadvantaged.

(c) The Scoping Process. Council on Environmental Quality (CEQ) regulations (40 CFR 1051.7) require that a scoping process be utilized to identify the likely significant issues and the range of those issues. The CEQ regulations are very specific as to what is to be determined, but the techniques are left up to the agency. Since much of the information on significant issues rests only with the public, public involvement is the heart of the scoping process. Therefore, the public involvement should be an integral part of the scoping process. A scoping meeting (or meetings, if desired), should be held early in the study. Scoping meetings may be held informally with other Federal, State, local or private groups; however, at least one of the scoping meetings should be broadly announced, held at a convenient location and time and open to all. Scoping should be used to focus in one specific issue areas. Therefore, while a broad scoping meeting may be desirable, it will not suffice for meetings that may be needed to target a specific audience, such as those with fish and wildlife interest.

(d) Input to Feasibility Reports. The Feasibility Reports shall include a description and evaluation of the efforts made to acquire public input and the information and opinions expressed prior to arriving at a decision. The public involvement section of the report shall show how public input was used in the planning and decision-making process.

(e) Public Involvement Techniques.

(1) Dealing with the Media. Media relationships should be conducted by or through the Public Affairs Office (PAO). PAO is skilled in techniques for the presentation of information to the public and in techniques for dealing with various types and levels of the media.

(2) Basic Communication Techniques. Technical experts often experience difficulty in communicating with non-technically oriented publics. Corps planners should know how to recognize values and develop skills to deal with different values. "Values" information is among the most important in the planning process. Values contain the information about what various publics think the plan "ought" to do. To be successful, the planning process must provide forums for dialogue among those holding different values, and facilitate discussion of meaningful tradeoffs.

(3) Meetings and Workshops. The guiding principle of designing meetings and workshops is that "format follows functions," meaning that the design of the meeting should reflect the purpose of the meeting. Meetings can serve five basic functions: information giving; information receiving; interaction; consensus forming/negotiation; and, summarizing. After determining a meeting purpose, the second most important issue facing the planner is room arrangements. Room arrangements reflect the relationships among the participants and are a visual demonstration to participants to

what the Corps expects from the meeting. The third major issue the planner faces is the choice of leadership style and meeting process. Numerous processes, most of which revolve around variations of nominal group techniques, are available to the planner. Within the various meeting processes, the planner should be aware of basic leadership style difference in "facilitating" versus "controlling" meetings. In designing a workshop, the planners should: identify the desired product; identify the resource information which the public will need; select a series of activities which will result in the desired product; and, design a simple mechanism for evaluating the workshop product. As the desired function moves closer to conflict resolution, the state of the arts in meeting design becomes more speculative.

(4) Public Meetings. The need for public meetings in a particular study will depend on the study type and complexity. The Commander has the responsibility to determine if the public or the Corps or both would benefit by the exchange of views or information provided by public meetings. Public meetings should be designed to be fair and impartial two-way communications and should be conducted informally and as simply as possible. The person facilitating the meeting should be: thoroughly familiar with the study; a rank or grade consistent with the audience expected; and skilled in group facilitation techniques. The Corps presentation should contain a brief summarization of the reason for the meeting and the progress of the study, and should provide ample opportunity for interested parties to share their viewpoints. The process used to achieve this exchange of views and information will be determined by the responsible Corps official. Meetings should be held at a time and locality convenient to the expected audience, normally in the area of the study. In cases where interest is very widespread, it may be appropriate to hold meetings away from the study area. The meeting announcement should be sent sufficiently in advance of the meeting to allow attendees to plan for the meeting and should contain sufficient information to allow the prospective attendee to decide if attendance would be beneficial. The meeting should be held at times convenient for working people to attend without requiring them to take leave time from their jobs. The language used in the announcement should be non-technical and the tone should reflect a sincere intent to produce a fair exchange and sharing of views and information. Distribution of the announcement should be as wide-spread as is consistent with the study and should include the members of Congress and the Governors of the States involved. The record of the meeting should be consistent with the type of meeting being held. A meeting involving great controversy may require a verbatim transcript, while a meeting of less intense controversy may require simply a short summarization.

(5) Questionnaires. Public surveys can be a valuable tool for obtaining specific information needs and public preferences. Questions should always be organized around very specific objectives, a data or content analysis plan, and a plan for using the survey results in the planning. As required by the Paperwork Reduction Act of 1995, Public Law 104-13, the Office of Management and Budget (OMB) must approve any questionnaire to be responded to by 10 or more U.S. citizens or US firms, organizations, or agencies outside the Federal Executive Branch. Prior to the use of questionnaires for planning studies, field offices shall submit an SF 83 to HQUSACE (CECW-P). AR

335-15 Chapter 4, describes required information. OMB has pre-approved a group of questionnaires for collection of planning data. The questionnaires are found under OMB-approval number 0710-0001, Questionnaires for U.S. Army Corps of Engineers Civil Works studies. The questionnaires cover the range of data that would generally be collected by surveys in water resources studies. The Paperwork Reduction Act requires OMB approval every three years. The approved questionnaires are transmitted by memorandum every three years following OMB approval. OMB also now requires that each individual survey effort be individually approved. The survey forms must be submitted through a Division office point of contact to the Office of the Secretary of Defense and OMB.

d. Analyzing Public Comment. Typically, the Corps receives large amounts of solicited and unsolicited public comments on planning alternatives. This information comes in the form of public comments, (written and spoken) and letters. Additionally, written and spoken media, as well as past studies, are often available and normally contain a wealth of public comment information. The planner should systematically describe, analyze and evaluate the layers of information usually contained in such public comments.

B-6. Study Management Coordination.

a. Conduct of Reconnaissance Studies. Although the Corps is responsible for the reconnaissance phase, efficient execution of the feasibility phase requires a cooperative reconnaissance effort as well. Therefore, the time to begin assembling the study management structure should be as early in the reconnaissance phase as possible. The management structure will be formalized in the study Feasibility Cost Sharing Agreement (FCSA).

b. Conduct of Feasibility Studies. The management structure developed during the reconnaissance phase will remain in force during the feasibility phase. Some adaptations may have to be made in the Study Management Team and in the Executive Committee to reflect the sharing of study tasks as provided in the executed FCSA and PMP.

B-7. Coordination with State and Local Governments Under E.O. 12372. Division and District commanders shall coordinate civil works planning programs with State and local governments in accordance with Executive Order 12372 (Intergovernmental Review of Federal Programs) and 33 CFR 384 (Intergovernmental Review of the Department of Army Corps of Engineers Programs and Activities).

a. Notification Requirements. Division and District commanders shall continue to directly notify all affected and interested State, area wide and local governmental interests and shall not rely on a state "single point of contact" (SPOC) to distribute notifications. Notices to interested parties shall reference E.O. 12372; shall indicate whether or not the program for which notice is being made has been selected by the affected State, or states, for coordination under the Executive Order procedures; shall

state that comments and responses to the notice should be sent directly to a designated Corps official in addition to the State SPOC in those cases where the program has been selected, and shall not state that the public will be notified, if the report recommendations are materially modified prior to project approval.

b. Effective Coordination. Division commanders shall adopt such procedures as may be necessary to assure coordination is effected with states in a manner consistent with 33 CFR 384 and the processes established by the individual states. Problems should be referred to HQUSACE (CECW-P) if they cannot be resolved to the division commander's satisfaction in the field. Substantive comments received from a SPOC should be acknowledged in writing, even if SPOC comments are fully accommodated.

B-8. Consultation and Coordination with Indian Tribal Governments. Division and District commanders shall coordinate civil works planning programs with American Indian and Alaska Native governments (hereinafter referred to as "tribes") in accordance with Executive Order 13084 "Consultation and Coordination with Indian Tribal Governments" and Department of Defense policy. District and Division commanders will fully integrate the principle and practice of meaningful consultation and communication with tribes by:

- recognizing that there exists a unique and distinctive political relationship between the United States and the tribes that mandates that, whenever (DOD) Corps actions may have the potential to significantly affect protected tribal resources, tribal rights, or Indian lands, (DoD) the Corps must provide affected tribes an opportunity to participate in the decision-making process that will ensure these tribal interest are given due consideration in a manner consistent with tribal sovereign authority;

- consulting, consistent with government-to-government relations and in accordance with protocols mutually agreed to by the particular tribe and DoD, including necessary dispute resolution processes;

- providing timely notice to, and consulting with, tribal governments prior to taking any actions that may have the potential to significantly affect protected tribal resources, tribal rights, or Indian lands;

- consulting in good faith throughout the decision-making process; and

- developing and maintaining effective communication, coordination, and cooperation with tribes, especially at the tribal leadership-to-Division and District Commander levels.

B-9. Public Notices. Public notices issued by field commanders will not contain language to the effect that the public will be notified, prior to final action, should report recommendations be materially modified prior to project approval.

B-10. Advisory Committees. Public Law 92-463 establishes approval and other requirements for advisory committees, boards, councils, conferences, panels, task forces, commissions or other similar groups formed in the interest of obtaining advice or recommendations. Advisory committees wholly comprised to full time officers or employees of the Federal Government, local civic groups whose primary function is rendering a public service with respect to a Federal program, or groups providing advice to State and local governments are exempt from those requirements. If an advisory committee not exempt from the Act is desired as a part of a study, approval shall be requested through HQUSACE (CERM). No advisory committee shall be established prior to approval. AR 15-1 describes information required to establish an advisory committee under the Act.

B-11. Exclusions. The Commander shall have the discretion to modify public involvement requirements for emergency planning studies under Section 14 of Public Law 79-526, as amended (Continuing Authorities)