



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

CEIWR-ZA

17 October 2008

MEMORANDUM FOR MSC Commanders, Districts, Laboratories, and FOA's

SUBJECT: Designation of the USACE Conflict Resolution & Public Participation Expertise Center (CX) and Directory of Expertise (DX) at the U.S. Army Institute for Water Resources (CEIWR)

1. References:

- a. Executive Order No. 13352 - *Facilitation of Cooperative Conservation*, 24 August 2004.
- b. Joint Memorandum on *Environmental Conflict Resolution* issued by Joshua Bolton, Director of the Office of Management and Budget (OMB), and James Connaughton, Chairman of the President's Council on Environmental Quality (CEQ), 28 November 2005, directing federal agencies to "increase the effective use of environmental conflict resolution (ECR) and build institutional capacity for collaborative problem-solving."
- c. CEQ Directive on Agency Implementation of Executive Order No. 13352 on avoiding litigation and resolving environmental disputes, 20 April 2006.
- d. Letter dated 29 November 2006 from John Paul Woodley, Jr., Assistant Secretary of the Army (Civil Works), transmitting the Army Civil Works 2nd *Annual Report on Environmental Conflict Resolution* to the Chairman, CEQ.
- e. ER-1110-1-8158, *Corps-Wide Centers of Expertise Program*, 16 January 1998.
- f. Policy Guidance Letter No. 61 - Application of Watershed Perspective to Corps of Engineers Civil Works Programs and Activities, 27 Jan 1999
- g. EC 1105-2-409, *Planning in a Collaborative Environment*, 31 May 2005.
- h. Civil Works Strategic Plan (2004-2009), March 2004.
- i. USACE Campaign Plan, Goal 2, Objective 2b – "Implement collaborative approaches to effectively solve water resources problems", August 2008.

2. Reference 1(b) defines ECR as "third-party assisted conflict resolution and collaborative problem-solving in the context of environmental, public lands, or natural resource issues or conflicts". This reference found that the promotion of collaborative problem solving and wider use of alternative dispute resolution (ADR) techniques is needed to help federal agencies overcome the governance challenge of balancing competing public interests which can manifest problems such as lengthy planning processes; delays in implementing decisions; protracted litigation; foregone investments; lower quality outcomes; and lack of trust between stakeholders.

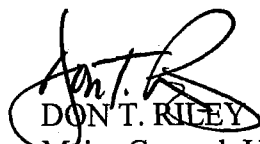
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3. Reference 1(b) also requires the submission of an annual report documenting agency progress in advancing the active use of ADR and collaborative problem solving into its natural resources programs. This includes documentation of the steps being taken to build an enhanced institutional capacity for collaborative problem-solving, the number of staff trained in ADR techniques, and provision of results-oriented documentation of the number of successful outcomes as result of ADR, ranging from conflict prevention (avoidance) or minimization to conflict resolution.
4. As stated in reference 1(f), "collaboration is the keystone of the Corps watershed approach". The active use of a wide range of collaborative techniques is fully consistent with the refreshed *USACE Campaign Plan* [reference 1(i)] the *Civil Works Strategic Plan*, ([reference 1(h)], the *Actions for Change* Theme 3 on *Risk Communication*, and the contemporary imperative for the Corps to work collaboratively with its Federal, State, local and NGO partners in developing consensus-based solutions to increasingly complex problems within an integrated, systems context.
5. In light of 1-4 above, it is essential that the Corps place a renewed and increased emphasis on developing, promulgating, and infusing ADR tools and other collaborative problem solving capabilities throughout USACE, including workshops and training at the executive and staff levels.
6. The Conflict Resolution & Public Participation (CPC) CX is assigned to the Institute for Water Resources (IWR), which is fully consistent with the Institute's pioneering role in the use of public participation and ADR techniques within the U.S., and most recently, in advancing the use of technically informed collaborative planning approaches such as Shared Vision Planning (SVP) and other Computer-Assisted Dispute Resolution (CADRe) techniques which combine contemporary public involvement consensus-building with state-of-the-art technical modeling to prevent or minimize the occurrence of disputes.
7. The CX will support training and outreach programs, provide consulting and technical assistance across USACE, and maintain a Directory of Expertise (DX) of both USACE and external ECR/ADR experts and techniques applicable to the full project life cycle, including regulatory and pre and post project planning. The attachment documents the responsibilities, methods and operations of the CX.
8. The lead Conflict Resolution & Public Participation CX proponents at HQUSACE are CECW and CECC. The POC's at IWR are Dr. Jerry Delli Priscoli and Dr. Hal Cardwell.

FOR THE COMMANDER:

Encl


DON T. RILEY
Major General, USA.
Deputy Commander

USACE Conflict-resolution and Public-participation Expertise Center (CPC) at the U.S. Army Institute for Water Resources (IWR)

Background

Many factors point to the critical need for a focal point to lead USACE's development and expanded application of collaborative tools to facilitate contemporary water resources decision-making within the U.S.

CEQ and OMB now require all USG Agencies to report yearly on their use of Environmental Conflict Resolution (ECR) processes in achieving their missions. (Attached Directives from OMB and CEQ.) Conflict Resolution and Public Participation processes are also now central skills for Achieving Promised Goals of the USACE – CW Program. They are embedded in the USACE strategic plan, environmental principles, watershed approaches and principles of IWRM. USACE national listening sessions repeatedly call for increased USACE use of these tools.

The Assistant Secretary of the Army for Civil Works, J.P. Woodley, has said:

"We will broaden our collaboration with others to enhance the chances of balancing water uses and making wise investments and trade-offs decisions."

Today USACE professionals must routinely manage multiple demands by multiple stakeholders, some of which conflict. Watershed stakeholders must jointly define problems and generate solution alternatives. USACE business processes are moving in directions that require conflict resolution, collaboration, and public participation such as;

- Increased collaboration with, and provision of technical assistance to states for their own water planning
- Increased competition at regional and watershed levels: ACT-ACF; Colorado River; Colombia River, including the 2014/2024 Treaty Study; the Missouri River; and Great Lakes studies with IJC
- Coastal America Partnership
- Regional Sediment Management
- Section 729 of WRDA 1986: Congress authorized the Corps to study water resources needs of river basins and regions with emphasis on intergovernmental coordination
- Section 404 Regulatory Program - Increased use of general and area-wide permitting, including a growing number of applications involving water supply needs
- CERP; LCA; CalFed; LACPR, etc.

Given this trend, and despite some outstanding examples of successful USACE intergovernmental collaborations, these tend to be more random acts of excellence, with limited technology transfer and export to other USACE activities or installations. Overall, USACE field knowledge and use of collaborative process tools is sporadic and uneven (Langton study, 1994).

Currently there is no acknowledged USACE portal for the field to access best practices or relevant USACE cases, or to turn to for help in designing approaches and training in these skills which are increasingly central to each of our business processes. Few formal systems for using conflict resolution, collaboration and public participation exist in USACE. Few, if any, of the current USACE field commanders have formal training in their portfolio in using these central techniques. The USACE field is increasingly requesting assistance and asking IWR for help in learning these skills. Requests include help with the CW regulatory program, particularly in association with the surge in water supply permitting; training and workshops on Shared Vision Planning and other collaborative techniques; a one-stop self-help web site; documentation of Corps case examples; updated guidance regulations and doctrine; and how to budget and fund related activities.

Background: USACE/IWR History on Conflict-resolution and Public-Participation

Through its Institute for Water Resources (IWR), USACE has an almost legendary history within the US government in the conflict resolution and public participation areas. In the 1970s, IWR USACE Public Involvement/Public Participation programs were primarily focused on Civil Works. USACE was considered to be a leader in the US government and collaborated with the White House to create the Interagency Council on Public Participation. USACE training set US government standards. During the 1980s, the focus on participation gave way to an increased focus on cost sharing as a way to collaborate. At the same time planning emphasis also decreased

In the 1980s - 1990s, IWR USACE, in collaboration with the Chief Counsel, created the Alternative Dispute Resolution (ADR) program, focusing primarily on military programs and less on Civil Works. The program achieved 50%/year reduction in claims or about \$500 million/year on average for over five years before it was cancelled. Again, USACE training set the standard for US government programs. As a result, USACE was presented the Hammer Award by Vice President Gore.

During the 1990s, USACE construction initiated a program in partnering, which was added to the ADR program. It too dealt primarily with military and construction programs. Through this program the USACE partnered with Army General Counsel to create a national movement in construction industry which resulted in major improvement in contracting through the US government and which spawned partnering programs in many states. Now there is a renewed interest in the tools of conflict resolution, collaboration and participation and a new convergence among the tools. See Appendix A for more detail.

Establishing a USACE Center of Expertise on Conflict-resolution & Public-Participation

The USACE Conflict-resolution and Public-participation Center of Expertise (CPC) at IWR will act as the principal USACE portal for the field to access best practices and to liaise with world leaders in these fields. The mission of the Center is to facilitate the prevention and resolution of water conflicts to achieve the sustainable management of water resources. The center will achieve this mission by developing and expanding the

application of collaborative tools to improve water resources decision making. The clients for the Center will be Corps of Engineers Headquarters, Districts and Divisions. The center will be located at IWR USACE and will maintain a small inter-disciplinary core staff, which in turn would have immediate access to the technical, public participation, and conflict management communities. It is expected that within three years, activities of the center will increase by at least threefold and that 60%-80% of the operating activities of the center will be reimbursable. The center will capitalize on the large reservoir of respect for past USACE leadership in the US government in these areas while updating and integrating new method, tools and techniques.

A Corporate Oversight Panel will guide the center's work. It will meet minimally twice a year and will include: the Director of Civil Works; Chief, Planning Community of Practice; Chief, Operations & Regulatory Community of Practice; USACE Chief Counsel; Chief of International and Interagency Programs, Directorate of Military Programs and the Director, Institute for Water Resources. The oversight panel will review the self assessment process required by CEQ and OMB and the annual report content and process.

The center's activities will span support to USACE-HQ, training and outreach programs, and a direct technical assistance program. Specific functions will include:

HQ Support

- Delivering the format and process to complete the annual required ECR and collaboration reports;
- Helping create Corps-wide indices to measure the use and effectiveness of collaborative process tools for conflict-resolution and public participation;
- Creating a Roster of conflict resolution, collaboration and public participation assistance help that is relevant to Corps missions
- Completing selected and relevant evaluation studies including the annual self assessment requirements, lessons learned, and case reports
- Assisting HQ in the consolidation and rewrite of Engineering Regulations, Engineering Circulars, Technical Notes, other statements of USACE doctrine relevant to conflict resolution, and public-participation;
- Representing USACE in appropriate fora of experts on these topics.

Training and Outreach Programs

- Updating and improve content and delivery of training on conflict resolution, and public participation:
 - (1). For Division Commanders, Deputy Commanders, Senior Executives and District Commanders, and key District Division Chiefs.
 - (2) Bring training to Field as units
 - (3) Help revise, update and modernize selected PROSPECT courses in coordination with Huntsville Division
 - (4) Provide short sessions at Regional Management Board (RMB) meetings and USACE Leadership conferences
- Acting as a magnet for world-class experts in these areas to lecture and write in short periods of residence visits at USACE-IWR

- Assuring that new tools such as interactive modeling and software for negotiations are usefully integrated into field applications
- Pursuing conflict resolution partnerships with the new Army Alternative Dispute Resolution center, as well as other US Government centers of expertise on collaborative processes (e.g. DoI's Office of Collaborative Action and Dispute Resolution, US Institute for Environmental Dispute Resolution).

Technical assistance to MSC's, Division RMB's; and Districts

- Assisting the field in specific cases in the implementation of conflict resolution and public participation processes

Expected Results of the Center

Advantages to the Corps of such Center include:

- Improved ability of Corps offices to interact with citizens and stakeholders in support of more integrated solutions.
- More Integrated Water Resource Management solutions implemented at Corps projects with broader public acceptance.
- Improved Corps public image through more openness, improved problem solving capabilities, and national recognition of the Corps' commitment to participation.
- Increased profile of IWR as a National Center of Expertise for Integrated Water Resources Management in accord with the Institute's new Mission and Function Statement.