

**FISH AND WILDLIFE SERVICE
ENGINEERING AND CONSTRUCTION**

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1.1 What is the purpose of this chapter? The purpose of this chapter is to ensure that we design and construct Service facilities that comply with:

- A. Life-safety, environmental, and building codes;
- B. Accessibility guidelines;
- C. Sustainability design principles;
- D. Archaeological, historical, and cultural requirements; and
- E. Energy and water conservation goals.

1.2 What is the scope of this chapter? This policy applies to the planning, design, and construction of projects on Service lands regardless of funding type or source.

1.3 What are the authorities for this chapter? The authorities for this chapter are (see Appendix 1 for more information about each authority):

- A. The Brooks Act: Federal Government Selection of Architects and Engineers, (P.L. 92-582).
- B. Executive Order (E.O.) 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction.
- C. Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et. seq.), as amended.
- D. Public Contracts and Property Management, Government Furnished Quarters (41 CFR 114 – 51) and Office of Management and Budget (OMB) Circular A-45, Rental and Construction of Government Quarters.
- E. Public Buildings Amendments Act of 1988 (P.L. 100-678).
- F. Highways, Highway Bridge Replacement and Rehabilitation Program and National Bridge Inspection Program (23 U.S.C. 144 and 151) and Federal Highway Administration; Bridges, Structures, and Hydraulics (23 CFR 650).
- G. E.O. 13423, Strengthening Federal Environmental, Energy, and Transportation Management.
- H. National Dam Inspection Act (P.L. 92-367).
- I. OMB Circular No. A-131, Value Engineering.
- J. Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 – 4157).
- K. Section 502 of the Rehabilitation Act of 1973, Architectural and Transportation Barriers Compliance Board (29 U.S.C 792).
- L. Americans with Disabilities Act (P.L. 101-336).
- M. Accessibility Guidelines for Buildings and Facilities issued under the Americans with Disabilities Act and the Architectural Barriers Act (36 CFR 1191).
- N. Energy Policy Act of 2005 (P.L.109-58).

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O. National Fire Protection Association 101, Life-Safety Codes.

1.4 What terms do you need to know to understand this chapter?

A. Authority Having Jurisdiction (AHJ). The AHJ is the organization, office, or person responsible for interpreting, applying, and enforcing life-safety and building code requirements and approving equipment, materials, and construction methods.

B. Construction Program. The Service's Construction Program is one of several major programs we use to manage our real property assets. We generally use the Construction Program for large, more technically complex projects. The Construction Program uses Construction Appropriation funding (sub-activity 28xx) and emergency supplemental funding (sub-activity 29xx).

C. Construction Projects. Construction projects include new construction, rehabilitation, deferred maintenance, force-account repairs, and demolition projects built on Service lands by or for the Service regardless of funding type or source. We classify construction projects as either exempt or non-exempt. For more information on construction projects, see section 1.9.

(1) Non-exempt Construction Projects. Non-exempt construction projects include life-safety, environmental, fire protection, building code compliance, change-of-use, or structural integrity issues. Final designs for **all** non-exempt construction projects must undergo a Qualified Engineering Review and Approval.

(2) Exempt Construction Projects. Exempt construction projects **do not** include life-safety, environmental, fire protection, building code compliance, change-of-use, or structural integrity issues. Final designs for exempt construction projects do not need to undergo a Qualified Engineering Review.

D. Engineering Services. Engineering services include, but are not limited to: Qualified Engineering Review and Approvals, feasibility studies, surveys, engineering assessments, technical assistance, cost estimates, design and constructability reviews, peer reviews, value engineering studies (see 360 FW 3), architectural and engineering design, project management, construction management (see 360 FW 4), and environmental compliance services.

E. Project Management Plan (PMP). A PMP is a project management tool we use to improve our management of large, complex construction projects. It includes information on project scope, budget, schedule, roles, and responsibilities. For more information on the PMP, see section 1.11.

F. Qualified Engineering Review and Approval. The Regional Engineer or the Chief, Division of Engineering (DEN), or their designee performs Qualified Engineering Reviews and Approvals. We require review of non-exempt construction projects to ensure they meet or exceed life-safety, environmental, accessibility, and other requirements. The reviewer must sign approved final construction plans and specifications. The Regional Engineering Office or the DEN may use Core Engineering Services funding to perform qualified engineering reviews.

1.5 Who implements this policy and what are their responsibilities?

A. The Director:

(1) Approves all construction projects included in the Service's 5-Year Maintenance and Construction Plans. For more information about the 5-Year Construction Plan, see section 1.6.

(2) Approves the reprogramming of Construction Appropriation funds up to a \$500,000

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threshold. Reprogramming requests greater than \$500,000 require Congressional review and approval.

B. The Investment Review Board (IRB) (also see [IRB charter](#))

(1) Is made up of:

(a) Assistant Director – Business Management and Operations,

(b) Assistant Director – Fisheries and Habitat Conservation,

(c) Assistant Director – Endangered Species,

(d) Assistant Director – National Wildlife Refuge System, and the

(e) Chief – Law Enforcement.

(2) Is responsible for implementing our Capital Planning and Investment Control (CPIC) program, which includes:

(a) Ensuring that projects we put in our 5-Year Construction Plan represent our highest priorities,

(b) Annually reviewing and approving the formula used to set funding targets for each Program,

(c) Reviewing and approving Exhibit 300's (Capital Asset Plan and Business Cases) for projects with a construction value greater than \$10 million, and

(d) Tracking project costs and schedule variances for projects over \$10 million to ensure we are managing them efficiently and effectively.

(3) Is responsible for providing feedback on decisionmaking to Regional Directors and the California/Nevada Operations Office (CNO) Manager and others, as appropriate.

C. The Assistant Director – Business Management and Operations:

(1) Oversees the Construction Program.

(2) As a member of the IRB, recommends dam safety construction projects and engineering program core funding in our 5-Year Construction Plan.

D. Other Program Assistant Directors:

(1) Determine project priorities for their respective programs nationwide,

(2) Defend those priorities to the other members of the IRB, and

(3) Communicate final recommendations on priorities to the Regional Directors and CNO Manager and others, as appropriate.

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E. The Chief, Division of Engineering (DEN):

- (1) Is responsible for the national leadership and formulation of policy and guidelines needed to deliver cost effective and efficient engineering services.
- (2) Assists the Service Directorate, when necessary, on technical engineering and construction issues.
- (3) Is responsible for the technical feasibility and Qualified Engineering Review and Approval of construction projects assigned to the DEN. Ensures that construction projects that the DEN reviews or manages meet our requirements.
- (4) Serves as the Authority Having Jurisdiction (AHJ) on building and life-safety code interpretations on all construction projects assigned to the DEN.
- (5) Facilitates the preparation of the Service's 5-Year Construction Plan (see section 1.6 for more information).
- (6) Identifies and justifies dam safety projects for consideration in the 5-Year Construction Plan. Prepares dam safety project documentation in the annual Budget Justifications and helps the IRB make decisions about the selection of dam safety projects in the Service 5-Year Construction Plan.
- (7) Manages our Emergency Construction account, Environmental Compliance, and Seismic Safety, Dam Safety, and Bridge Safety Programs.
- (8) Consults with Washington Office Program Managers and staff to issue annual project guidance for all Construction Appropriation projects including appropriation language, national program objectives/expectations, project scope, cost schedule, and allowable use of funds.
- (9) Prepares the Engineering Performance and Accomplishment Report annually that includes data on workload, staffing, project completion performance, cost performance, and program management.

F. The Regional Directors and CNO Manager:

- (1) Oversee engineering services on construction projects in their Regions/CNO and ensure projects meet their needs.
- (2) Recommend Regional/CNO construction project priorities to the IRB.
- (3) Approve the reprogramming of Construction Appropriation funds up to a \$50,000 limit.

G. The Assistant Regional Directors – Budget and Administration:

- (1) Are the Regional Engineers' first line supervisors.
- (2) Recommend reallocation of Emergency Supplemental funding to the Regional Directors/CNO Manager.

H. Other Assistant Regional Directors, Regional Chiefs – NWRS, CNO Assistant Managers:

- (1) Work with the Regional Engineers to identify the priorities, budget, schedule, scope, and engineering services required for Regional/CNO construction projects.

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- (2) Recommend Construction Program project priorities to the Regional Directors/CNO Manager.
- (3) Prepare, review, and approve Project Data Sheets, budget briefing materials, capability and effect statements, and responses to Appropriations Committee requests on construction projects. Coordinate with and involve the Regional Engineers as appropriate.
- (4) Review and approve PMPs and subsequent updates to track project scope, schedule, budget, roles, and responsibilities. See section 1.11 for more information about PMPs.
- (5) Review design drawings to ensure they fulfill project scope and comply with PMPs.
- (6) Designate staff, as required, to fulfill the above requirements.

I. The Regional Engineer:

- (1) Provides technical advice to the Regional Director/CNO Manager and other Regional staff on Regional/CNO engineering, facility design, and construction issues.
- (2) Coordinates with non-engineering staff and consultants working on construction projects not assigned to the Regional Engineering Office to inform them of Service engineering and construction policies, guidelines, and requirements impacting Regional/CNO construction projects.
- (3) Responsible for planning, design, and construction management of all non-exempt projects assigned to the Regional Engineering Office involving a construction contract, regardless of funding source. (See section 1.9 for more information about non-exempt projects.) May assign Project Managers to undertake these tasks
- (4) Conducts a Qualified Engineering Review and Approval on all Regional/CNO non-exempt construction projects.
- (5) Serves as the Authority Having Jurisdiction (AHJ) on building and life-safety code interpretations on all projects assigned to the Regional Engineering Office.
- (6) Reports on all 28xx, 29xx, Central Hazardous Materials Fund (CHF) and other project funding, consistent with annual project guidance provided by the DEN.
- (7) Provides input, as requested, on Service Asset Maintenance Management System (SAMMS) work orders, briefing materials, and other documents that estimate cost and scope in support of our 5-Year Maintenance and Construction Plans.
- (8) Works with Regional/CNO staff to identify seismic safety and bridge safety projects for consideration in our 5-Year Maintenance and Construction Plans.
- (9) Oversees and coordinates construction management and project inspection activities (see 360 FW 4).
- (10) Conducts value engineering studies on Regional/CNO projects and participates on value engineering teams (see 360 FW 3).
- (11) Coordinates with the Regional/CNO Safety Manager to ensure staff working on construction projects follow the health and safety guidelines and adequately address health and safety issues.
- (12) Guides the preparation and revision of PMPs for Regional/CNO construction projects and makes sure the appropriate officials review and approve them.

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(13) Conducts annual performance reviews on how well the Regional Engineering Office is delivering engineering services (see section 1.15 for more information about program evaluation).

(14) Prepares or assists in the preparation of condition assessments as requested by Regional/CNO Office Program staffs.

(15) Provides input to the Real Property Inventory, Construction Work-in-Progress, Stewardship Asset Project List, Capitalized Project List, and other Plant, Property and Equipment databases for newly constructed assets.

(16) Is responsible for providing the Project Leader with technical engineering assistance in securing permits and clearances.

J. The Contracting Officer (CO):

(1) Is a Service employee who has the authority to enter into, administer, or terminate contracts. The CO is responsible for ensuring performance of all necessary actions for effective contract administration, ensuring compliance with terms of the contract, and safeguarding the interests of the Government.

(2) Ensures that the Regional Engineer or the Chief, DEN has completed a Qualified Engineering Review and Approval on non-exempt construction projects before completing procurement actions for construction materials or services.

(3) Works with the Regional Engineer or Chief, DEN to determine when a construction contract requires a Contracting Officer Representative (COR). Appoints a COR and Service Construction Inspector, if applicable, in writing.

K. The Project Manager (PM):

(1) Is the point of contact on the status, scope, budget tracking, schedule, and technical issues for all non-exempt construction projects. The PM ensures that projects meet our requirements.

(2) Is typically an engineer, architect, or landscape architect from the Regional Engineering office or the DEN. The Regional Engineer or Chief, DEN assigns projects to the PM.

(3) Must have:

(a) Technical expertise in facility planning, design, and construction;

(b) Knowledge of construction contracting procedures;

(c) Experience with facility design and construction processes and techniques; and

(d) Effective communication skills.

(4) Routinely serves as the COR on a construction project. In this role, the PM must meet the Department of the Interior COR training requirements (see Department of the Interior Acquisition Regulation 1401.670 for more information about CORs). Because of their technical complexity, some construction contracts may require the COR to have specific training or certifications, such as project management certification, construction management degree or certification, or an architecture or engineering degree.

(5) Prepares and maintains PMPs.

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(6) Is responsible for leading, coordinating, and facilitating the project team on all project design, schedule, budget tracking, and construction issues.

L. The Construction Inspector (CI):

(1) Serves as a site representative at a Service construction site to ensure that all construction complies with contract requirements.

(2) Is knowledgeable of and experienced in a wide variety of construction standards, trades, and inspection procedures. Typically, the CI works on large, complicated construction projects (e.g., visitor centers, hatchery buildings, or large dikes or dams) with significant electrical, mechanical, HVAC, or structural complexity.

(3) Is appointed in writing by the CO before construction begins. The [Service's Construction Inspection Handbook](#) lists the CI's responsibilities and duties (see 360 FW 4 for more information on CI responsibilities and training).

M. A Project Team Leader:

(1) May be necessary for exceptionally complex or politically sensitive construction projects. The Regional Engineer or Chief, DEN, the Assistant Regional Director/CNO Assistant Manager from the affected Program office, and the Project Leader identify the need for a Project Team Leader and the appropriate person to serve in this role.

(2) May coordinate many of the non-technical aspects of a project with the PM, project team, and others, such as Friends groups on National Wildlife Refuges; members of the local community; and local, State, and other Federal agencies. On construction projects, the Project Team Leader and PM must coordinate carefully to carry out and fulfill project requirements (see section 1.5K for more information on the PM's responsibilities).

N. The Project Leader:

(1) Identifies construction project needs for his/her field station.

(2) Ensures compliance with this policy for construction projects at his/her field station.

(3) Reviews PMPs and subsequent updates.

(4) Identifies impacts of construction projects on fish and wildlife and other environmental/ecological resources.

(5) Reviews design drawings to ensure they fulfill the project scope and are in compliance with the PMP.

(6) On exempt construction projects with no assigned PM, ensures that the construction project follows the approved design.

(7) Is responsible for obtaining, prior to contract award, all necessary permits and clearances, unless otherwise provided for in the PMP. The Regional Engineer or the Chief, DEN, or their designee, will give technical engineering assistance to the Project Leader, if necessary, to obtain permits and clearances. Exhibit 1 is a list of the types of permits and other legislative compliance requirements commonly encountered during a construction project.

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1.6 What is the Service's 5-Year Construction Plan? The 5-Year Construction Plan (Plan):

- A.** Identifies, justifies, and requests funding for construction projects that the Construction Appropriation account will fund.
- B.** Is divided into 5 years—a budget year followed by 4 “out-years.” Each plan year contains a list of specific line-item construction projects.
- C.** Is updated annually to incorporate actual appropriations and to add a new “out-year.”
- D.** Is periodically revised to reflect changes made by the Department and OMB.

1.7 Who prepares the 5-Year Construction Plan?

A. The IRB is responsible for recommending the Plan for the Director's review and approval. The IRB makes sure that the Plan:

(1) Includes our highest priority Construction Appropriation projects.

(2) Meets the goals and directions contained in annual budget guidance and the Service's Asset Management Plan.

B. Division of Engineering staff:

(1) Support the IRB by updating and maintaining the Plan.

(2) Make sure cost estimates for projects in the Plan are accurate and meet Federal facility development requirements.

(3) Coordinate the final recommendations in the Plan that involve dam, bridge, and seismic safety program management and environmental compliance with the Regional/CNO Program staff.

C. Under the direction and guidance of their respective IRB member, Washington Office Program staff identify national program construction project priorities and provide advance briefings for IRB members.

D. Staff in the Regional/CNO Program offices and Assistant Regional Directors/CNO Assistant Managers identify Regional/CNO project priorities and make recommendations to the Regional Directors/CNO Manager.

E. Regional Directors and the CNO Manager send Regional/CNO project priorities to the Director (and copy the DEN) for consideration in Plan updates.

1.8 What is the process for developing the 5-Year Construction Plan?

A. The Department issues annual guidance on how we should request Construction Appropriation funds. The guidance usually is available by the second quarter of the fiscal year. The Departmental ranking system emphasizes projects with a significant health and safety component and gives priority to phased projects that were partially funded in a prior year over initiating new projects.

B. After the Department guidance is issued, the Director issues a memorandum instructing the Regional Directors/CNO Manager to nominate new projects to include in the new Plan “out-year.”

C. Regional/CNO staff recommend to their Regional Directors/CNO Manager projects for consideration in

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the updated Plan. Before making a recommendation, staff must estimate project costs and identify the scope of the project. They must also enter project work orders in the Service Asset Management and Maintenance System (SAMMS). The Regional Director/CNO Manager decides which projects to include in a list that he/she sends to the Director (with a copy to DEN). The Regional Director/CNO Manager also includes an up-to-date Project Data Sheet and, if the project has a construction cost greater than \$10 million, an Exhibit 300 (Capital Asset Plan and Business Cases), for each nominated project.

D. Without screening or filtering, the DEN assembles all Regional/CNO project nominations by Program area and gives them to the appropriate Assistant Directors. Generally, we prioritize projects based on the Departmental ranking system score.

E. The Director sets the overall Construction Appropriation budget target. After deducting funding for National Engineering Services and required dam and bridge inspection program costs, the Director gives each major program area (the National Wildlife Refuge System, the National Fish Hatchery System, and Dam Safety Program) a funding target for construction projects, based on an IRB-approved formula which balances the relative size and need of each program area.

F. Assistant Directors (AD) review the Regional/CNO project nominations and give the DEN a list of the projects they want to fund within their target.

G. The DEN consolidates the lists from the ADs with the dam safety project list, prepares a draft plan, and submits the plan to the IRB.

H. The IRB discusses the draft plan and makes adjustments if necessary.

I. The DEN makes any necessary revisions the IRB requests and sends the Plan to the Director.

J. The Director sends the approved Plan to the Department.

1.9 What are the types of construction projects? There are two types of construction projects—exempt and non-exempt.

A. Exempt Construction Projects. Exempt construction projects do not have life-safety, environmental, accessibility, fire protection, building code, seismic safety, structural, or demolition issues. We call them “exempt” because we **do not** require that the Regional Engineer or the Chief, DEN, review and approve final designs. Examples of exempt projects include, but are not limited to:

(1) In-kind replacement and repair of roofing, siding, windows, and doors;

(2) Road repaving/repair projects that do not involve substantial change to alignment and drainage;

(3) Traffic control devices and signage that are not on roadways;

(4) Small culvert/water control structure replacement. Some culvert/water control structure replacement projects may actually be non-exempt construction projects due to their size, increase in hydraulic capacity, or impact on migratory fish populations. Regional staff should evaluate these projects carefully to ensure we classify them correctly;

(5) Fencing;

(6) Exterior public-use facilities such as kiosks and trails;

(7) Renovations to building interiors and exteriors that **do not** involve:

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- (a) Structural modification or changes to load-bearing structural elements, mechanical, electrical, and plumbing systems,
- (b) Egress or life-safety modifications,
- (c) Modifications for accessibility by persons with disabilities; or
- (d) Change in building use that may impact applicable Life Safety Codes.

B. Non-exempt Construction Projects. Non-exempt construction projects have life-safety, environmental, accessibility, fire protection, building code, seismic safety, structural, or demolition issues. We call them “non-exempt” because we require that the Regional Engineer or the Chief, DEN, review, approve, and sign the final designs for all non-exempt construction projects before we procure construction materials or services. Non-exempt projects include, but are not limited to:

- (1) Buildings and change of building use;
- (2) Structures;
- (3) Mechanical, electrical, and plumbing systems;
- (4) Wind and hurricane protection projects;
- (5) Dam, bridge, and seismic safety projects;
- (6) Environmental projects involving remediation and regulatory compliance (e.g., asbestos and lead paint);
- (7) Structural elements;
- (8) Foundations;
- (9) Abutments;
- (10) Roads, intersections, and roadway traffic control devices and signage;
- (11) Elevated boardwalks, decks, piers, towers, and other structures requiring handrails or other safety devices; and
- (12) Demolition that may impact load bearing walls or materials involving hazardous air pollutants (e.g., asbestos). See National Emissions Standards for Hazardous Air Pollutants for further information.

1.10 Who determines if a project is exempt or non-exempt? The Regional Engineer will work with Regional/CNO Program staff to discuss the scope of each construction project. The Regional Engineer and appropriate Regional staff must determine, before the beginning of the fiscal year and as additional construction projects arise, which construction projects are exempt and which are non-exempt.

1.11 What are the requirements for preparing a Project Management Plan? We use PMPs to help manage large, complex non-exempt construction projects. The PMP includes information on project scope, schedule, budget, roles, and responsibilities. The following requirements apply to PMPs:

A. Funding Threshold. We must prepare a PMP for all construction projects with a construction project

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value greater than the current deferred maintenance project threshold (the threshold in 2006 was \$750,000). We may choose to prepare a PMP for a project with a value less than the deferred maintenance project threshold if it is technically complex.

B. Review and Approval.

(1) For projects less than the deferred maintenance project threshold, the following officials must review and approve the PMP and updates:

(a) Project Leader,

(b) Project Manager, and

(c) Contracting Officer.

(2) For projects over the deferred maintenance threshold, in addition to the officials listed in the subsection above, the following officials must also review and approve the PMP:

(a) Assistant Regional Director for the affected Program, Regional Chief – NWRS, or CNO Assistant Manager, and

(b) Regional Engineer.

C. PMP Updates. The Project Manager must update a PMP and submit it to the officials listed in 1.11B for re-review whenever a significant change to funding, scope or project cost occurs.

1.12 Are there any special requirements for tracking expenses on construction projects? Yes. Service employees must only use funds for the purpose for which they were appropriated and must:

A. Establish a unique project number for every construction project.

B. Track all projects by the project number.

C. Track charges by budget object class.

D. For projects that extend for more than 1 year, reuse their project number the following year so that a full accounting of all costs may be determined at the end of each project.

E. Under no circumstances, charge one project's costs to another project.

1.13 What are the allowable charges for Construction Appropriation projects? When authorized by the Regional Engineer or Chief, DEN, allowable project-specific charges include:

A. Construction costs.

B. Appropriate salaries, benefits (including annual leave and sick leave), office expenses, travel and per diem for Engineering staff while working on the project.

C. Costs to provide engineering services, including:

(1) Consultant fees,

(2) Reimbursable expenses,

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- (3) Travel and per diem expenses,
- (4) Temporary construction office space and equipment, and
- (5) Expenses for engineering construction inspectors.
- D. Furnishings, furniture, and equipment essential to delivering a turnkey facility.
- E. Travel and per diem for non-Engineering Regional/CNO Office and field station personnel directly involved in project planning and design.
- F. Costs to identify and protect cultural and historic resources.
- G. Safety and health professional services.
- H. After award of a construction contract, travel and per diem of field station personnel directly involved in construction or field inspection activities.
- I. Acquisition of land only if capability statements, effect statements, or enabling legislation specifically reference the need to acquire it.

1.14 How does the Service evaluate project performance on completed construction projects?

- A. The Regional Engineer or the Chief, DEN must evaluate the overall performance of:
 - (1) All completed construction projects valued at more than \$500,000, and
 - (2) A 10 percent sample of all other completed construction projects with a value less than \$500,000.
- B. The goal of the evaluation is to determine:
 - (1) Whether the project met customer requirements, and
 - (2) How we can change future designs to avoid repeating problems or issues.
- C. Engineering staff must:
 - (1) Complete evaluations within 1 year after project completion.
 - (2) Use the Project Evaluation Questionnaire (see [FWS Form 3-2340](#)) to collect comments from key building occupants or staff familiar with the planning, design, operation and function of the project.
- D. Regional/CNO teams responsible for construction projects may present their findings during the annual performance review meetings.
- E. The Regional Engineer must give a copy of each evaluation to the Chief, DEN.

1.15 Are there any requirements to evaluate the engineering services that the Service Engineering staff provides on construction projects? Yes. Regional Engineers must request feedback annually from Project Leaders and Regional/CNO Office Program staff on the quality and timeliness of engineering services that Engineering staff provide. The Regional Engineers must use this information to recommend

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organization and management changes to improve services on future projects.

1.16 Is it possible to “mix” funds on a construction project? Federal appropriations law requires that when there is a specific appropriation for a project, we must use the appropriated amount to fund that project. We must not co-mingle Construction Appropriation funds with Resource Management funds, or any other General Appropriation funds for any reason, e.g., to fund higher-than-anticipated project costs or cover an increase in project costs due to a change in project scope.

1.17 May the Service use funds from another program on a Construction Appropriation project? Appropriations law does not keep us from using Resource Management, General Appropriation funds, or Construction Appropriation funds on a single construction contract, provided we meet the following conditions:

A. The work identified in the contract must be separate and distinct. Project plans must clearly differentiate between the work to be completed with various funding accounts. We may use a Schedule of Values to track work completed and the various cost accounts we used to pay for that work. A Schedule of Values is submitted by a contractor and provides a detailed summary of the amount, type, and cost of work performed. Subsequently, we may pay for specific work from different cost accounts.

B. We must use the Construction Appropriation account to complete the facility the specific appropriation language describes. We must transfer any surplus funds when a project is complete to the Emergency Construction Account (see section 1.18) or reprogram it to another project.

C. We may use additional funds from the Resource Management account or other General Appropriations to construct appurtenant facilities at a Construction Appropriation project site, as long as the appropriation record does not specifically include those facilities in the project scope. For example, we may use Resource Management funds to construct security measures, communication systems, fences, gates, signs, or access roads associated with a new visitor center, as long as those facilities are not included in the appropriation record's defined scope of the visitor center.

1.18 What is the Emergency Construction Account? The Emergency Construction Account provides emergency funding for critical human health and safety needs we anticipate may cost more than \$100,000. We use surplus Construction Appropriation project funds to fund the Emergency Construction Account after a project is either complete or we terminate it.

A. Procedures for Using Emergency Construction Funds. You can find procedures and criteria relating to this account in the Director's memorandum, Procedures and Criteria for Allocation of Emergency Construction Funds, September 6, 1991 (see Exhibit 2). The Chief, DEN manages the Emergency Construction Account.

B. Timely Transfer of Funds. We must transfer unobligated project funds into the Emergency Construction Account within 90 days following the end of the project's warranty period.

1.19 How does the Service identify unobligated Construction Appropriation project balances? As mentioned in section 1.18, we must transfer unobligated Construction Appropriation project balances into the Emergency Construction Account.

A. During year-end reconciliation, the Chief, DEN must identify unobligated balances and categorize them into the following areas:

(1) Construction Appropriation project balances, regardless of amount, 8 years old and older.

(2) Construction Appropriation project balances \$5,000 and less that are 5 years old and older.

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(3) Nationwide Engineering Services account balances, regardless of amount, 3 years old and older.

B. No later than 30 days after year-end reconciliation, the Regional Engineer must give the Chief, DEN narrative justification for all project balances greater than \$5,000 that are 5 years old and older.

C. The Chief, DEN must consolidate information on all Construction Appropriation project balances meeting the criteria in sections 1.19A and B above and send the report to the Assistant Director – Business, Management and Operations no later than 45 days after year-end reconciliation.

1.20 What types of consultants does the Service typically use for construction projects?

A. Our consultants may be private companies, agencies, and organizations we access through means such as architectural or engineering services contracts, partnerships, cooperative agreements, and memorandums of understanding (MOU).

B. In addition to corporations, consultants may include, but are not limited to:

- (1) The U.S. Army Corps of Engineers,
- (2) The Bureau of Reclamation,
- (3) The Federal Highway Administration,
- (4) State and local conservation agencies, and
- (5) Non-profit organizations such as Ducks Unlimited.

1.21 May the Program offices obtain engineering services from consultants?

A. Yes. While only a Contracting Officer (CO) can establish a contract for professional Architect-Engineer (A-E) services under the Brooks Act, Program office staff may work with the CO to include task orders under existing contracts if they get concurrence from the Regional Engineer or the Chief, DEN.

B. Program staff may obtain consulting services not covered under the Brooks Act without concurrence from the Regional Engineer or the Chief, DEN. Staff must work with a CO to use the required instrument (e.g., MOU, cooperative agreement, etc.).

C. Program staff working as CORs must meet COR training requirements.

1.22 What special condition applies to contracts for engineering work? For contracts covered under the Brooks Act (professional A-E services), only the Chief, DEN, the Regional Engineer, or their designee may serve as the COR.

1.23 Are there any experience, educational, or licensure requirements for consultants providing engineering services for Service construction projects? Yes. At a minimum, consultants must meet State professional licensing requirements for engineers, architects, surveyors, and landscape architects. The Chief, DEN or the Regional Engineers may also require consultants to be licensed in the State where the project is located, if it is different from their place of business.

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1.24 What requirements must consultants and non-Engineering staff meet to provide engineering services? Generally, consultants and non-Engineering staff must meet all the applicable requirements in this chapter and 360 FW 2 through 4 when working on non-exempt construction projects. Non-Engineering staff are Service employees who may do construction project work, but who do not work for the Regional Engineer or the Chief, DEN. The following requirements apply to construction projects that non-Engineering staff complete:

A. A registered engineer, architect, or landscape architect must sign final designs for all non-exempt projects prepared by consultants and non-Engineering staff. This signature certifies the project complies with applicable local, State, and Federal environmental and building codes, permits, and regulations.

B. Consultants and non-Engineering staff must prepare a PMP for all non-exempt projects and fulfill the requirements specified in section 1.11.

C. The Regional Engineer, Chief, DEN, or a designee must perform a Qualified Engineering Review and Approval of final designs and contract packages for all non-exempt construction projects before solicitation for construction services or procurement of materials. The Regional Engineer or Chief, DEN must sign final drawings noting the project complies with applicable local, State, and Federal environmental and building codes, permits, and regulations.

D. Before the CO can approve final payment, consultants and non-Engineering staff must provide as-built drawings for projects to the Chief, DEN or Regional Engineer.

1.25 When may the Service use cooperative agreements to construct facilities?

A. We may use a cooperative agreement only under the following conditions:

- (1) There is specific Congressional authority to do so;
- (2) The money, property, services, or other thing of value will be used to accomplish a public purpose; and
- (3) When both the Federal and non-federal parties will be substantially involved in accomplishing the purpose of the project.

B. The CO has the final decision on appropriate use of cooperative agreements.

C. Before using a cooperative agreement for construction, Project Managers and Project Leaders must ask the Department's Office of the Solicitor to review the project to ensure that:

- (1) We have legal authority to enter into a cooperative agreement;
- (2) There is substantial involvement by both parties to the agreement;
- (3) A cooperative agreement is the correct legal instrument (versus a grant, contract, etc.); and
- (4) All authorities, responsibilities, deliverables, budgets, and time frames for completing the agreement objectives are clearly delineated.



DEPUTY DIRECTOR

Date: April 26, 2007