

**CONTINUING AUTHORITIES PROGRAM (CAP)
(Small Civil Works Projects)**

PROGRAM AUTHORITIES. Unlike the traditional Corps civil works projects that are of wider scope and complexity and require specific authorization and appropriations, the Secretary of the Army, acting through the Chief of Engineers, has been delegated the authority to plan, design, and construct certain types of water resource and environmental restoration projects without specific Congressional authorization pursuant to ten legislative authorities. Each authority has its own requirements and strict limits on responsibilities and financial contributions of the federal partners. The ten legislative authorities that make up the Continuing Authorities Program are:

Program Authority	Description	Federal Funding Limits (incl. WRDA 2007 changes)	
		Project	Annual Program
Section 14	Flood Control Act of 1946 (PL 79-526), as amended for emergency streambank & shoreline erosion protection for public facilities & services.	\$1,500,000	\$15,000,000
Section 103	River & Harbor Act of 1962 (PL 87-874), as amended, amends PL 727, an act approved August 13, 1946 which authorized Federal participation in the cost of protecting the shores of publicly owned property from hurricane & storm damage.	3,000,000	30,000,000
Section 107	River & Harbor Act of 1960 (PL 90-483), as amended for navigation.	7,000,000	35,000,000
Section 111	River & Harbor Act of 1968 (PL 90-483), as amended, for mitigation of shoreline erosion damage caused by Federal navigation projects.	5,000,000	N/A
Section 145	Placement of Dredged Material on beaches, Water Resources Development Act of 1976 (PL 94-587), as amended.	N/A	N/A
Section 204	Beneficial Uses of Dredged Material, Water Resources Development Act of 1992 (PL 102-580), as amended.	5,000,000	15,000,000
Section 205	Flood Control Act of 1948 (PL 80-858), as amended, for flood control.	7,000,000	55,000,000
Section 206	Aquatic Ecosystem Restoration, Water Resources Development Act of 1996 (PL 104-303), as amended.	5,000,000	50,000,000

Section 208	Flood Control Act of 1954 (PL 83-780), as amended, originally Section 2, Flood Control Act of August 28, 1937 (PL 75-406) for snagging and clearing for flood control.	500,000	7,500,000
Section 1135	Project Modifications for Improvement of the Environment, Water Resource Development Act of 1986 (PL 99-662), as amended.	5,000,000	40,000,000

Section 14- Emergency Streambank and Shoreline Erosion.

Authorized by section 14 of the 1946 Flood Control Act, as amended. Work under this authority allows emergency streambank and shoreline protection for public facilities, such as roads, bridges, hospitals, schools, and water/sewage treatment plants, that are in imminent danger of failing. The non-Federal sponsor is responsible for a minimum of 35% to a maximum of 50% of total project costs and the Federal Government is responsible for the remainder of total project costs. The Federal share of planning, design, and construction cannot exceed \$1,500,000 per project.

Section 103- Hurricane and Storm Damage Reduction. Authorized by section 103 of the 1962 River and Harbor Act, as amended. Work under this authority provides for protection of public and private properties and facilities against damages caused by storm driven waves and currents by the construction of revetments, groins, and jetties, and may also include periodic sand replenishment. The non-Federal sponsor is responsible for 35% of that portion of total project costs assigned to hurricane and storm damage reduction, 50% of that portion of total project costs assigned to recreation, and 100% of that portion of total project costs assigned to privately owned shores and the Federal Government is responsible for the remainder of total project costs. The Federal share of planning, design, and construction cannot exceed \$5,000,000 per project.

Section 107- Small Navigation Improvements. Authorized by section 107 of the 1960 River and Harbor Act, as amended. Work under this authority is intended to provide improvements to navigation including dredging of channels and widening of turning basins. For commercial navigation improvements. The cost share varies by the depth of the improvements – for a depth of 20 feet or less, the non-Federal sponsor is responsible for 10% of total costs of the general navigation features; for a depth in excess of 20 feet but equal to or less than 45 feet, the non-Federal sponsor is responsible for 25% of total costs of the general navigation features. The non-Federal sponsor is also responsible for an additional 10% of total costs of the general navigation features that is offset by the value of lands, easements, rights-of-way, and relocations necessary for the project. This additional 10% may be repaid over a period not to exceed 30 years. The Federal Government is responsible for the remainder of total costs of the general navigation features. For recreation navigation improvements – the cost

share is 50% Federal and 50% non-Federal. The Federal share of planning, design, and construction cannot exceed \$7,000,000 for each project.

Section 111- Shore Damage Attributable to Federal Navigation Projects. Authorized by section 111 of the 1968 River and Harbor Act, as amended. Work under this authority provides for the prevention or mitigation of erosion damages to public or privately owned shores along the coastline of the United States when these damages are a result of a Federal navigation project. This authority cannot be used for shore damages caused by riverbank erosion or vessel-general wave wash. It is not intended to restore shorelines to historic dimensions, but only to reduce erosion to the level that would have existed without the construction of a Federal navigation project. The costs of implementing measures under this section must be shared in the same proportion as the cost sharing provisions applicable to the project causing the shore damage. If the Federal cost limitation of \$5,000,000 will be exceeded on a project, specific congressional authorization is required prior to initiating the project.

Section 204- Regional Sediment Management & Beneficial Uses of Dredged Material. Authorized by section 204 of the WRDA 1992, as amended - work under this authority provides for the use of dredged material from new or existing Federal projects to protect, restore, or create aquatic and ecologically related habitats, including wetlands. The cost share is 65% Federal and 35% non-Federal of the incremental cost above the least cost method of dredged material disposal consistent with engineering and environmental criteria. Cooperation in the preparation of comprehensive State or regional sediment management plans may be carried out at Federal expense. Projects for the purposes of protection, restoration, or creation of aquatic and ecologically related habitat, the costs of which do not exceed \$750,000 and which are located in a disadvantaged community, may be carried out at Federal expense.

Section 205- Small Flood Damage Reduction Projects. Authorized by section 205 of the 1948 Flood Control Act, as amended - work under this authority provides for local protection from flooding by the construction or improvement of structural flood damage reduction features such as levees, channels, and dams. Non-structural alternatives are also considered and may include measures such as installation of flood warning systems, raising and/or flood proofing of structures, and relocation of flood prone facilities. For structural flood damage reduction projects - the non-Federal sponsor is responsible for a minimum of 35% to a maximum of 50% of total project costs and the Federal Government is responsible for the remainder of total project costs. For non-structural flood damage reduction projects - the cost share is 65% Federal and 35% non-Federal. The Federal share of planning, design, and construction cannot exceed \$7,000,000 per project.

Section 206- Aquatic Ecosystem Restoration. Authorized by section 206 of the Water Resources Development Act of 1996, as amended - work under this authority may carry out aquatic ecosystem restoration projects that will improve the quality of the environment, are in the public interest, and are cost-effective. There is no requirement that an existing Corps project be involved. The cost share is 65% Federal and 35% non-Federal. The Federal share of planning, design, and construction cannot exceed \$5,000,000 per project.

Section 208- Snagging and Clearing for Flood Control. Authorized by section 208 of the 1954 Flood Control Act, as amended - work under this authority provides for local protection from flooding by channel clearing and excavation, with limited embankment construction by use of materials from the clearing operation only. The non-Federal sponsor is responsible for a minimum of 35% to a maximum of 50% of total project costs and the Federal Government is responsible for the remainder of total project costs. The Federal share of planning, design, and construction cannot exceed \$500,000 for each project.

Section 1135- Project Modifications for Improvement of the Environment. Authorized by section 1135 of the Water Resources Development Act of 1986, as amended - work under this authority provides for modifications in the structures and operations of water resources projects constructed by the Corps of Engineers to improve the quality of the environment. Additionally, the Corps may undertake restoration projects at locations where an existing Corps project has contributed to the degradation. The primary goal of these projects is ecosystem restoration with an emphasis on projects benefiting fish and wildlife. The project must be consistent with the authorized purposes of the project being modified, environmentally acceptable, and complete within itself. The cost share is 75% Federal and 25% non-Federal. The Federal share of planning, design, and construction cannot exceed \$5,000,000 per project.

TWO-PHASED CAP IMPLEMENTATION PROCESS

FEASIBILITY PHASE (Phase 1)

CAP studies will be completed in two phases. The initial phase is the Feasibility Phase, followed by the Design and Implementation Phase. The Feasibility Phase will complete the plan formulation process, including the selection of a plan, generally in accordance with guidance for feasibility studies that are specifically authorized by the Congress. The level of detail shall be appropriate to the scope and complexity of the recommended solution and sufficient to proceed directly into the preparation of contract plans and specifications. Environmental compliance activities should be completed during this phase. If the feasibility phase is anticipated to or will exceed the federally funded initial \$100,000 allotted for CAP feasibility studies, a Feasibility Cost Sharing Agreement (FCSA) is required to be executed with the non-Federal sponsor prior

to expending the total initial \$100,000. The non-Federal sponsor is responsible for 50% of the total feasibility study costs beyond the \$100,000 initially funded by the Federal government. 100% of the non-Federal share can be provided through in-kind services.

1. Feasibility Phase Initiation. A study will be initiated by the Corps when a letter of request for assistance from a sponsor is received stating its desire to participate in a solution; acknowledging its financial responsibilities in the study and project (if recommended) and is able to proceed within the implementation time target. In addition, the Corps may initiate a Feasibility study based on direction provided by act or committee report language accompanied by a letter from the non-Federal sponsor requesting assistance.

2. Federal Interest Determination. The federal interest determination is to decide on the advisability of continuing work on the phase consistent with the principles, priorities, and constraints of the CAP, thus preventing excessive expenditures on questionable projects. It also determines and documents the willingness and ability of the Sponsor to cost share. The Federal Interest Determination should be accomplished early enough in the phase to assure that funds are committed to efforts likely to lead to project implementation, and, if corrective planning and design actions are necessary, they can be taken while sufficient time and resources remain in advance of reaching the end of the Federally funded portion of the phase.

3. Project Management Plan (PMP). Negotiation of the FCSA and PMP will be accomplished during the Federally funded portion of the study. The primary purpose of the PMP is to describe the tasks to be accomplished and associated study costs to be incurred during the feasibility study. No funds over the initial \$100,000 will be allocated until the FCSA has been executed.

A PMP, negotiated between the Corps and the non-Federal sponsor, will ensure that the work required for the feasibility phase has been carefully developed and considered. The PMP forms the basis for estimating the total study cost and non-Federal share requirements. It also is the basis for assigning tasks between the Corps and the sponsor and for establishing the value of in-kind services. The responsibility for the preparation of the PMP rests with the project manager and project team.

The determination of the dollar value of in-kind products or services will be negotiated between the non-Federal sponsor and the Corps. The dollar value of the in-kind effort will be established prior to initiation of the in-kind effort. Acceptance of the product or service will be as called for in the PMP.

The PMP should include the costs for the tasks which non-Federal sponsors have historically accomplished without charge, such as: supervision and administration; study management; attendance at meetings, both public and

technical; and overhead and indirect costs which are directly related to the feasibility study. It is expected that detailed scopes of work may be needed for individual items in the PMP. Work items will also include those tasks typically necessary to support the review process. These items could include responding to comments and report revisions as a result of review.

The PMP will guide the allocation of study funds among tasks to assure that all interests are given adequate attention. As a minimum, the PMP will address: work tasks, their milestones and negotiated costs, and responsibility for their accomplishment; Corps and other professional criteria used to assess the adequacy of the completed work effort, procedures for reviewing and accepting the work of both parties, which can be audited; the schedule of performance; the coordination mechanism between the Corps and non-Federal sponsor; and references to regulations and other guidance that will be followed in conducting the tasks.

The PMP will address the appropriate level of engineering detail required for the feasibility phase. Engineering studies and analysis should be scoped to the minimum level needed to establish project features and elements that will form an adequate basis for the project construction schedules and cost estimate. Uncertainties should be reflected in contingencies which will be resolved during feasibility and/or plans and specifications.

4. Feasibility Cost Sharing Agreement (FCSA). The feasibility phase is funded with \$100,000 Federal funds to investigate if the project is warranted and justified for federal participation. Funds over \$100,000 needed for the feasibility phase requires a FCSA to be signed and funds cost shared as a 50/50 split. The total cost of the feasibility phase will be established through negotiations of the PMP.

The cost estimate in appropriate Code of Accounts format will identify major costs by task and by type (i.e., labor, materials, equipment, indirect cost, etc.), and be fully supported and documented. Procedures will be established for tracking expenses and cost accounting, including the allocation of costs between the Federal government and non-Federal sponsor. These procedures will include the ability to review costs incurred during the study, and will provide the basis for the annual cost accounting and the final cost settlement.

Adjustments may be required for in-kind services and the 50/50 apportionment between the Corps and the non-Federal sponsor at the end of the feasibility phase. Equal yearly expenditures are not required. However, parties to the FCSA must agree to the funding schedule established in the PMP.

The FCSA is intended to promote a partnership for the conduct of the feasibility study. The U.S. Army Corps of Engineers, through the District Commander, remains responsible for representing the Federal interest by following Federal

policies and budgetary priorities. Both parties will conduct planning within the framework established by the Planning Guidance Notebook. The latest model FCSA shall be followed. The District Commander shall be satisfied that the FCSA is legally sufficient and that the non-Federal sponsor has the legal authority to enter into the agreement. The latest model FCSA for a particular authority can be found at the following HQ website:

<http://www.usace.army.mil/cw/cecw-p/pca/ccpca.htm>.

While developing the PMP, which will be incorporated in the FCSA, the District must discuss with the prospective non-Federal sponsor(s) the objectives of the feasibility study, necessary level of detail, cost of studies, and scheduling of activities for the feasibility study. If desired and acceptable to the non-Federal sponsor, various project detail studies normally achieved after completion of the feasibility phase could be scheduled for the feasibility study to reduce uncertainties in areas such as design and cost.

During negotiations, the prospective non-Federal sponsor must be informed that the level of accuracy of alternative plan evaluation and cost estimates to be developed in the feasibility study will depend on the extent of uncertainties and the depth of investigations made during the feasibility study.

5. Decision Document. The final product for the Feasibility Phase is the Feasibility Report, which serves as the decision document, with either an integrated or attached NEPA document. Both the Feasibility Report and the EA/FONSI or EIS/ROD requires the appropriate signatures to be considered complete.

DESIGN & IMPLEMENTATION PHASE (Phase 2)

This phase consists of all technical and procurement activities through construction, after the completion of the feasibility phase and decision document approval. Prior to the initiation of the D&I phase, a Project Partnership Agreement (PPA) must be executed with the non-Federal sponsor. The PPA will define the cost share sharing and items of local cooperation required by the non-Federal sponsor.



**US Army Corps
of Engineers**
Philadelphia District

CAP

(Continuing Authorities Program)

Section	Authority	Purpose	Cost Share % (Fed/Non-Fed)	Federal Project Limit	Annual Program Limit
14	Emergency Streambank Protection	Protection for public and nonprofit facilities	65/35	\$1,500,000	\$15 M
103	Beach Erosion Control	Protection of public shorelines	65/35	\$3,000,000	\$30 M
107	Small Navigation Projects	Small river and harbor improvements	Non-Fed share 10 to 50% depending on depth	\$7,000,000	\$35 M
111	Mitigate Shore Damage Attributed to Navigation Works	As a result to a Federal navigation project	Same as original project	\$5,000,000	n/a
204	Beneficial Uses of Dredged Material	Dredged material to create aquatic habitat and wetlands	65/35	\$5,000,000	\$15 M
205	Flood Damage Protection	Small flood control projects	65/35	\$7,000,000	\$55 M
206	Aquatic Ecosystem Restoration	Restore degraded aquatic ecosystems in the public interest	65/35	\$5,000,000	\$50 M
208	Snagging and Clearing for Flood Control	Removal of snags and trees in navigable streams and tributaries in the interest of flood control	65/35	\$500,000	\$7.5 M
1135	Modifications for Improvement of the Environment	Restoration in a degraded ecosystem resulting from Corps project operations	75/25	\$5,000,000	\$40 M