

**Public Comment Summary: DRAFT Engineer Circular 1165–2–218:  
U.S. Army Corps of Engineers Levee Safety Program**

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## Public Comment Summary: DRAFT Engineer Circular 1165–2–218: U.S. Army Corps of Engineers Levee Safety Program

The U.S. Army Corps of Engineers developed draft agency guidance, Engineer Circular (EC) 1165-2-218: U.S. Army Corps of Engineers Levee Safety Program, to consolidate and formalize the principles, policies, and key processes used by USACE in the program. In an effort to gain public input, USACE published the draft guidance in the Federal Register for public comment. The document was initially posted in the Federal Register on February 25, 2020 for a 60-day review period, closing on April 27, 2020.

It was the intent of USACE to host five in-person public sessions to provide additional opportunities to exchange information related to the draft Engineer Circular prior to the conclusion of the open comment period. Due to ongoing concerns related to coronavirus disease 2019 (COVID–19), USACE postponed the in-person public sessions until such a time they could be safely rescheduled or an alternative plan for virtual information exchange could be implemented. As a result, USACE issued a notice in the Federal Register on March 26, 2020 that extended the public comment period on the draft Engineer Circular until July 27, 2020.

In addition to the posting in the Federal Register, the public comment period and the 90-day extension to the original 60-day review period was promoted on the HQUSACE Levee Safety Program website, the social media accounts of USACE headquarters and USACE districts and divisions, and during public virtual information sessions hosted by the USACE headquarters and division and district levee safety teams.

### Commenter Affiliation

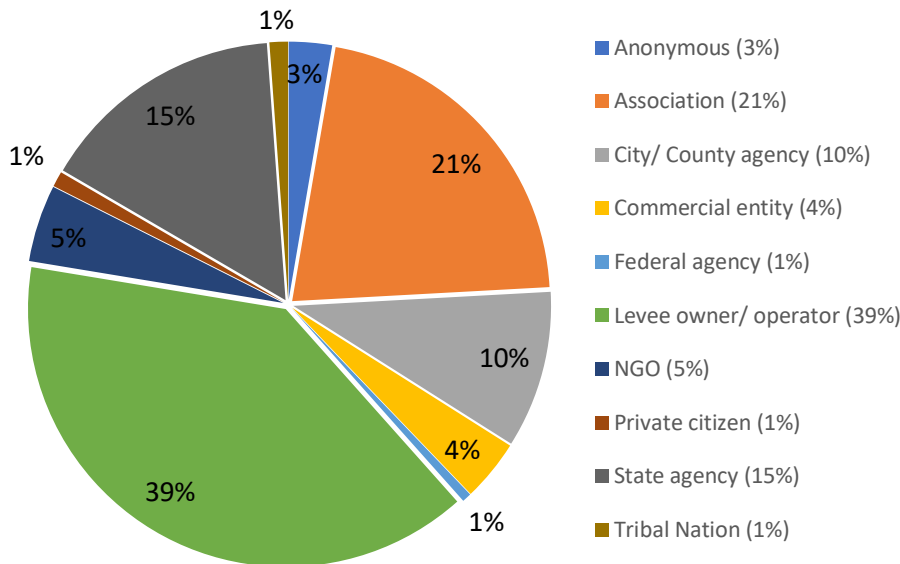


Chart A: Commenter Affiliation

## Overview of Public Comments Received

A total of 54 responses were received by online response form, email, or letter submissions during the open comment period. The responses have been identified by affiliation and type of respondent. All comments collected from each respondent have been individually logged into a comment matrix to track the comment and response for each one.

A total of 514 individual comments were received and logged into the comment matrix. Of all the comments received, a little more than a third (39 percent) were provided by *levee owners and operators*. *Associations* such as the National Association of Flood and Stormwater Management Agencies (NAFSMA), Association of State Floodplain Managers (ASFPM), and National Waterways Conference (NWC) submitted 21 percent of the comments, and state and local agencies collectively provided 25 percent. The remaining 15 percent of comments came from nongovernmental organizations, commercial entities, tribal nations, public citizens, federal agencies, and anonymous sources. The comments received by commenter affiliation is displayed in Chart A: Commenter Affiliation.

The 514 individual comments were organized by 18 topic categories to facilitate the review and response to similar comments or to properly evaluate and deconflict opposing comments within the same category.

The comment categories include the following:

- Clarification
- Coordination/Collaboration
- Communication
- Cost-benefits
- Data Management
- Focus of the Engineer Circular
- Emergency Management
- Funding
- Inspections
- Miscellaneous
- Operations and Maintenance
- Readability
- Recommendations/Revisions
- Responsibilities
- Public Law 84-99 Rehabilitation Program
- Risk
- Risk Assessment
- Training

Comments related to *inspections* and *risk assessments* included the greatest quantity of comments (17 percent or 89 comments, and 11 percent or 56 comments, respectively). Nine percent of all comments received were related to USACE and levee sponsor *responsibilities*, 9 percent focused on *readability* of the guidance, 8 percent

of the comments focused on the *PL 84-99 Rehabilitation Program*, and 8 percent of comments related to *recommended additions and revisions* to the Engineer Circular content.

When reviewing the comments provided, it was evident that specific categories seemed to receive a greater number of responses from certain affiliation groups. For example, the *levee owner/operators* affiliation group provided the most comments for related to *inspections* (38 comments), which accounts for 19 percent of the affiliations' overall comments on the draft Engineer Circular and 43 percent of all comments in the *inspection* category. *State agencies'* top comment category was also *inspections* (21 comments), accounting for 26 percent of the affiliations' comments and 24 percent of all comments in the *inspections* category. Together, *levee owner/operators* and *state agencies* accounted for 66 percent of all comments in the *inspections* category received during the review period.

*Associations* had the most comments for the *recommendation/revision* category (22 comments), which accounts for approximately 20 percent of their overall comments in the guidance and 54 percent of all *recommendations/revisions* comments received. The *city/county agency* top comment category was also *recommendations/revisions* (12 comments), accounting for 24 percent of the affiliation's comments and 30 percent of all *recommendations/revisions* comments received. Together, *associations* and *city/county agency* comments make up 83 percent of all comments in the *recommendations/revisions* category.

While *nongovernmental organizations* and *private citizen* did not have nearly as many comments as some of the other affiliations, both groups focused their comments on the *responsibilities* category. *Responsibilities* accounts for 28 percent of the *nongovernmental organizations'* total comments and 40 percent of the *private citizen* comments received. The *anonymous* and *commercial entity* groups had their comments spread across various categories. *Tribal nations* also had a wide distribution of comments across different categories, including *responsibilities*, *data management*, *miscellaneous*, and the *PL 84-99 Rehabilitation Program*.

Table 1: Greatest Number of Comments Provided by Affiliation summarizes the top category of comments received for each affiliation group that provided comments during the review period.

Greatest Number of Comments Provided by Affiliation										
Comment Category	Anonymous	Association	City/ County agency	Commercial Entity	Federal Agency	Levee owner/ operator	NGO	Private Citizen	State agency	Tribal nation
Clarification					✓					
Coordination/ Collaboration										
Communication										
Cost-Benefits										
Data Management										
EC Focus										
Emergency Management	✓									
Funding										
Inspections		✓	✓		✓	✓			✓	
Miscellaneous										✓
O&M	✓				✓					
Readability				✓		✓				
Recommendation/ revision	✓	✓	✓							
Responsibilities	✓					✓	✓	✓		✓
Rehabilitation Program									✓	
Risk										
Risk assessment		✓		✓		✓	✓		✓	
Training										

Table 1: Greatest Number of Comments Provided by Affiliation

**Comment Summary by Topic**

The 514 individual comments received on the draft Engineer Circular were organized by 18 topic categories. Chart B: Comment by Topical Category shows the distribution of comments received in each category. The greatest number of comments received related to *inspections*, *risk assessments*, and *responsibilities*. Many comments also relate to the *PL 84-99 Rehabilitation Program and clarification*.

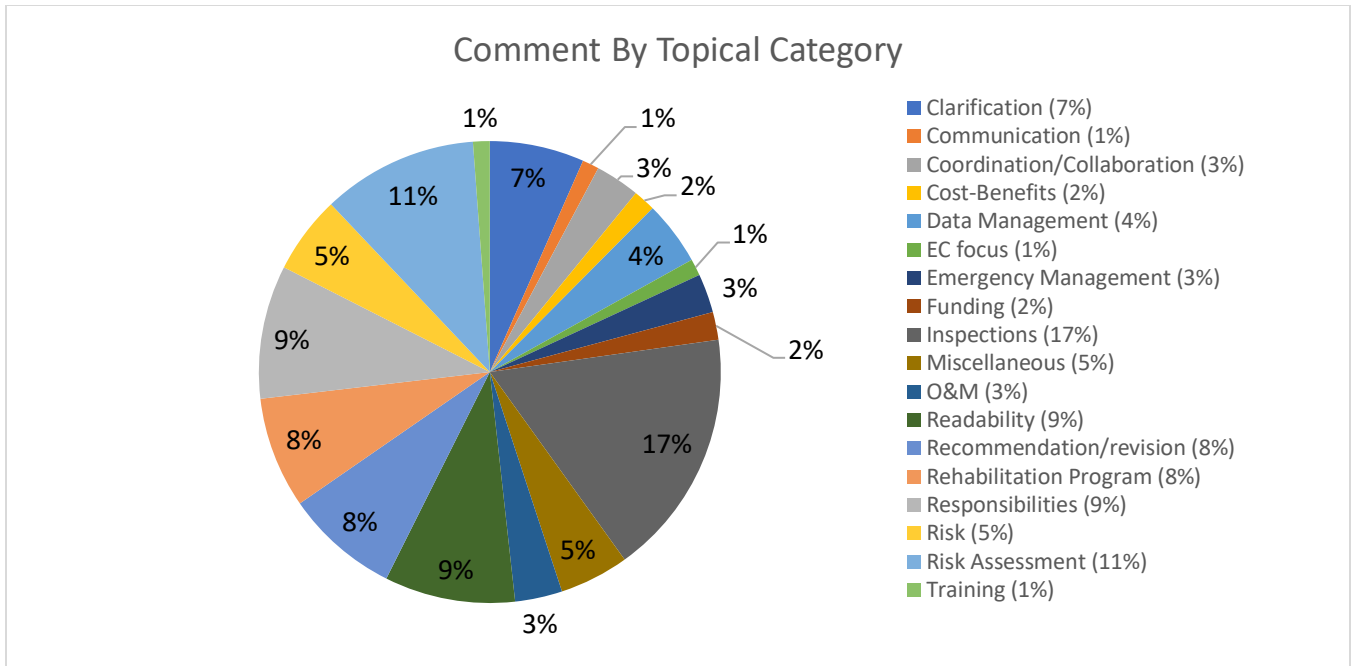


Chart B: Comment by Topical Category

The following is a summary of the comments, by topic category. The categories have been presented based on the number of comments received (highest to lowest). The first category (*inspections*) having the greatest number of comments.

**Inspections**

Seventeen (17) percent of the comments received were related to *inspections*. There were 89 comments related to *inspections*, representing 80 percent of all affiliation groups (*anonymous, association, city/county agency, commercial entity, federal agency, levee owner/operator, private citizen, and state agency*).

Commenters were interested in topics such as the following:

- Gaining a better understanding of how to list and address deficiencies identified in the inspection
- The forms and software that should be used
- Funding for post-flood inspections
- A mechanism for resolving conflicts between sponsor and USACE inspection results
- Guidance alignment (e.g. 33 CFR Subpart D [Rehabilitation Assistance for Flood Control Works Damaged by Flood or Coastal Storm] and Operations and Maintenance manual updates).

Some commenters questioned whether a 5-year timeframe was a reasonable frequency for inspections. One commenter asked, “Is five years a realistic timeframe to conduct levee inspections? Can the USACE confirm that they have the resources necessary to perform this type of inspection every five years for every levee system/segment in the levee safety program?” Others remarked that sponsor inspections should be done more frequently, “at least semi-annually and after a significant high water event.”

A few commenters voiced their concern about how to ensure that inspections are being performed by qualified personnel. Others inquired about who would conduct the inspections. One commenter (a local sponsor) stated discomfort with the possibility of having to perform the inspections: “We as sponsors don’t have all the knowledge and experience to see any or all issues that may occur and cause major damage, as your training inspectors do see.”

Other comments stated the need for sponsor participation during the inspections. Several commenters raised concern about advanced notice to levee sponsors prior to an USACE-led inspection, indicating that a 10-day advanced notification is not sufficient since it does not allow enough time to prepare and be available to participate. “The USACE is only required to give 10 business days’ notice prior to inspection, which comes with a data collection request. This local sponsor requests at least 45 days, since extensive data collection is required in advance.” There were also comments that recommended altering approaches to certain inspections. For example, one commenter shared the following: “We do not believe it is feasible to walk entire levee systems at the recommended intervals. However, it may be possible to walk sections of levee segments as needed based on inspection observations and known historical problem areas.”

Some commenters asked about the requirement to use the defined USACE inspection procedures as a minimum standard, while others requested clarity and greater specificity related to inspection procedures, indicating that the draft Engineer Circular “doesn’t provide details on the new inspection format to be followed, forms to be filled out, or how deficiencies will be documented.” One commenter questioned if the approach provided in the draft Engineer Circular was consistent with the PL 84-99 Rehabilitation Program inspection and reporting requirements stated in the Code of Federal Regulation. Another commenter stated that the guidance text should direct USACE districts to prioritize inspection findings and follow-up actions using the risk-based framework.

There were a handful of comments that related to patrolling and safety concerns. Some of these comments spoke to the types of equipment associated with inspections as well as describing how they should be used to promote safety (e.g., adequate nylon safety lines, ladders). Other comments raised concern about the potential dangers with patrolling in certain areas during highwater patrols, as well as hazards with walking the site in the dark:

“Patrols at night are extremely dangerous and should not be routine and only conducted by highly trained patrollers and emergency response personnel for a specific location or issue. Prioritized use of limited patrol forces is best utilized during daylight when patrol conditions are safer and issues are more likely to be noticed.”

Commenters stated that the Engineer Circular needs to specifically state that “overall inspection ratings of levee systems or levee segments will no longer be assigned.” Others were concerned with how recent ratings would be applied to the new approach: “What will happen with levee systems and segments for which overall inspection ratings have been give and are in place? Will USACE work to ‘convert’ those ratings to a risk assessment-based report once this policy goes into effect, or wait until the next USACE Inspection to do so?”

## **Risk Assessments**



Eleven (11) percent of the comments received were related to *risk assessments*. There were 56 comments related to *risk assessments*, representing 70 percent of all affiliation groups (*anonymous, association, city/county agency, commercial entity, levee owner/operator, nongovernmental organizations, and state agency*). Given the significant role of risk assessments as a core Levee Safety Program activity, comments directly addressing “risk assessments” were separated from the “risk” topic.

Commenters were interested in topics such as the following:

- Who will be conducting risk assessments
- What are the procedures and frequency for completing and updating the assessments
- What tools and forms will be used
- What information will be included in the Levee Risk Management Summary

Some commenters asked if assessments can be performed by using previous formal levee inspections or summaries developed by others:

“While we do not object to adjunct use of risk assessments per se, we are troubled by the presumption that only Corps-produced risk assessments may be used as the basis for broad programmatic operations and, indeed, the totality of our national flood protection effort. The Corps risk assessments can be neither unchallengeable nor unimprovable if we are to rationally sustain and improve the form and function of our flood control investments.”

Technical comments were provided pertaining to topics such as the method used for determining annual exceedance probability of the levee, the criteria used to determine interior drainage hazard, inclusion of certain factors (such as climate change) in semi-quantitative or quantitative risk assessment estimates, and how to consider different loading conditions.

Other commenters requested clarification on the roles for developing the assessments as well as the intended use of the risk assessments:

“Our general understanding is that USACE is to conduct risk assessments and the levee sponsor can utilize that information to inform actions relating to levee safety management. However, there are instances in the EC where the role of who is assessing and evaluating risk is not clear.”

### **Responsibilities**

Nine (9) percent of the comments received were related to *responsibilities*. There were 48 comments related to *responsibilities*, representing 90 percent of all affiliation groups (*anonymous, association, city/county agency, commercial entity, levee owner/operator, nongovernmental organizations, private citizen, state agency, and tribal nation*). The comments under this topic relate both to USACE and levee sponsor responsibilities outlined in the Engineer Circular.

An over-arching theme was the concern that the guidance was suggesting activities well beyond the reach of local sponsor authority. There were also several comments that spoke to sponsor concerns that activities described in the draft Engineer Circular fell outside of their area of authority. For example, one commenter said

the following: “This guidance is requiring local sponsors to assume roles in which they have no statutory authority.” Other commenters remarked that the draft guidance is requiring local sponsors to assume liability beyond their program capabilities and area of responsibility: “By expanding local project sponsor responsibilities to include landside risk mitigation, the proposed EC needlessly subjects us to increased legal exposure.” Comments also questioned if the draft Engineer Circular was consistent with the intent of statutes such as the Flood Control Acts of 1928 and 1936.

Several comments focused on a concern that levee safety program responsibilities were seemingly being shifted from USACE to the local sponsor and that the requirements listed in the draft Engineer Circular create new or additional expectations of the local sponsor. For example, one commenter shared the following:

“The Seneca Nation, as owner of the levees and the surrounding areas associated with the flood protection project in Salamanca (and thus a key stakeholder), expresses concern over the prospect of critical levee safety program responsibilities being increased at the local level (through the NYSDEC) while being diminished at the federal level (the USACE level).”

There were comments asking for clarification on the USACE organizational structure for these efforts as well as contact information to support the local sponsors. There was also a recommendation to describe the range of USACE services and support more clearly. One commenter shared the following: “The activities and services provided by USACE are discussed throughout the document in different chapters. Recommend a summary of these activities with services highlights is given in the beginning or the end of the document; at the beginning is preferred.”

### **Readability**

Nine (9) percent of the comments received were related to readability. There were 47 comments related to readability, representing 60 percent of all affiliation groups (*anonymous, association, city/county agency, commercial entity, levee owner/operator, and state agency*). These comments can best be categorized as editorial comments, focusing on topics such as the following:

- Identifying typos
- Recommending word options
- Noting inconsistencies in referencing materials to other sections of the draft guidance
- Suggesting alternate formatting and style options

For example, “The column headings for tables within the proposed EC should be in consistent order. For Table II.2.1, the column headings from left to right show the Sponsor in column number 3 and the District in Column 4. This order is reversed for Table II.2.2 where the District is listed before Sponsor.” Commenters also made suggestions on possible global changes to address consistency and use of the most appropriate term: “Consistently, and throughout the EC, for actions or activities of the ‘levee sponsor,’ use the term ‘may’ rather than ‘shall,’ ‘will,’ ‘must’ or other language that could indicate something other than an entirely voluntary action.”

In addition, comments offered ways to display information that may be helpful to the reader. An example provided would be adding graphics that demonstrate how to “properly place and stack the sandbags.”

Commenters offered other ways to improve the Engineer Circular, such as adding web links to programs, policy, and other tools that would facilitate cross-referencing those materials with their occurrence in the guidance: “It would be helpful to add more extensive in-text cross references to applicable USACE design guidance documents throughout the EC.”

### **PL 84-99 Rehabilitation Program**

Eight (8) percent of the comments received were related to the *PL 84-99 Rehabilitation Program*. There were 40 comments related to program, representing 60 percent of all commenters (*association, commercial entity, levee owner/operator, nongovernmental organizations, state agency, and tribal nation*). There were several comments that pertained to the future of the PL 84-99 Rehabilitation Program and Levee Safety Program activities:

“The Draft EC says little about the future of the integral Public Law 84-99 Rehabilitation Program. And by conflating residual risk in flood plains with project performance factors, the proposed EC would have the Corps overlook the need to identify engineering deficiencies and remedies for flood projects. The proposal relies on internally developed risk assessments that lack transparency and reproducibility.”

Other comments related to certain aspects of the PL 84-99 Rehabilitation Program, such as the eligibility requirements for assistance based on the Levee Safety Program requirements. More specifically, some commenters requested details on the selection criteria and process while other commenters wanted a better understanding of how eligibility would align with the levee inspection method laid out in the draft: “With regard to the Rehabilitation Program, what information from the levee safety program will be used to determine eligibility? Objective criteria should be defined and used to determine program eligibility.”

For instance, a commenter asked about new criteria and requirements that levee sponsors would document to keep an active status in the PL 84-99 Rehabilitation Program, given that overall inspection ratings of levee systems/segments will no longer be assigned. Another comment stated concern with future changes to the PL 84-99 Rehabilitation program that would consider consequences for eligibility rather than applying inspections-based standards: “PL 84-99 Rehabilitation Program eligibility, a tried and true levee safety program, should continue to rely on ‘inspection-based standards,’ not ‘estimated flood plain consequences.’”

### **Recommendations/Revisions**

Eight (8) percent of the comments received were related to *recommendations or revisions*. There were 41 comments related to *recommendations/revisions*, representing 50 percent of all affiliation groups (*anonymous, association, city/county agency, commercial entity, and levee owner/operator*). These comments provided specific language to change text, add further detail, or address a gap in information. The changes included: suggested alternate word choices, references and links that would be beneficial to the reader, and inserting text to address items that were not included. One commenter suggested the following:

“There are two memoranda, Reference A.20 and A.21, that are not shared with local sponsors. Since the District asks the Local Sponsor to participate in at least the summary portion of these important activities, and since this EC states that we are partners, please add to the reference how to find these two memorandum, or otherwise make them known to your Local Sponsor.”

There were comments that focused on the applicability of the Engineer Circular. For example, one commenter shared the following revision: “This document presents a menu of possible strategies and measures that levee sponsors may choose to consider as viable means to improve levee performance. Nothing herein is intended nor will be used by the USACE to compel action by levee sponsors either through issuance of this EC or by its incorporation into other USACE programs.” Other comments suggested revising statements to avoid confusing terms. Suggestions included to “refrain from using the term ‘mitigation’ throughout the document, and instead use ‘reducing risk through improved levee performance’ or ‘remediation,’” or including additional content that looks “beyond the assumption that the levee will always be in place. Setting levees back should be evaluated.”

### **Clarification**

Seven (7) percent of the comments received were related to *clarification*. There were 34 comments related to *clarification*, representing 60 percent of all affiliation groups (*anonymous, association, city/county agency, federal agency, levee owner/operator, and state agency*). Comments included under this category focused on items that were unclear to the commenter. For example, one commenter indicated “the terms ‘medium/moderate likelihood of failure’ are utilized in a confusing fashion.” Comments in this category also address those areas where the commenter felt that information relevant to the topic was missing or not provided in enough detail. For example, there were a few comments about the lack of information related to the distribution of incident reports.

On occasion, commenters provided a suggested addition or revision to further explain or clarify the text in question, such as recommending the inclusion of “Local Sponsor” in an official glossary. Clarification recommendations ranged from risk assessment timing and schedule to inspection processes. Other comments for clarification requested more detailed descriptions as well as further information on actions during each phase of the disaster lifecycle. For example, one commenter asked for more information on mitigation activities for levees: “During levee mitigation for federal levees or non-federal levees, if there is a need to repair the existing scour protection, which design standard should be followed?”

### **Risk**

Five (5) percent of the comments received were related to *risk*. There were 28 comments related to *risk*, representing 50 percent of all affiliation groups (*anonymous, association, levee owner/operator, nongovernmental organizations, and state agency*). There were a range of comments pertaining to different aspects of *risk*.

These areas include:

- Applying the Tolerable Risk Guidelines (TRG)
- Understanding and communicating flood risk
- Updating risk management summaries
- Building risk awareness

In relation to risk awareness, comments focused on understanding how USACE will support the communication of risk and benefit information with community leaders and stakeholders, what steps need to be taken in order to meet Tolerable Risk Guidelines requirements, and sponsor roles related to risk awareness activities.

Commenters questioned the legality of determining acceptable risk: "...when it comes to determining project specific decisions, who decides what 'society' defines as an acceptable risk – non-federal sponsors, elected officials or USACE District staff? This definition seems too general to pass legal review, thereby making it difficult to use in actual situations." There were also concerns raised about how the Engineer Circular talks about flood risks to people and property in the area behind the levee: "By conflating residual risk in floodplains with project performance factors, the proposed EC would have the Corps overlook the need to identify engineering deficiencies and remedies for flood projects."

### **Miscellaneous**

Five (5) percent of the comments received were individual comments across several other additional topic areas. These 25 comments accounted for 70 percent of affiliation categories (*association, city/county agency, levee owner/ operator, nongovernmental organizations, private citizen, state agency, and tribal nation*). The comments received were in areas such as considerations of tribal sovereignty, availability of inundation mapping, clarification on the range of USACE assistance, requests for 90-day extension to review the draft Engineer Circular given the challenges with interacting with the public and interested parties during the COVID-19 pandemic, and requests to withdraw the draft Engineer Circular, stating that "the EC draft would cause irreparable harm by interfering with the primary mission to continuously improve the performance and safety of structural flood protection projects. Any proposal that weakens the ability to maintain and improve our flood protection should be thrown out."

### **Data Management**

Four (4) percent of the comments received were related to *data management*. There were 23 comments related to *data management*, representing 60 percent of all affiliation groups (*association, city/county agency, commercial entity, levee owner/operator, state agency, and tribal nation*). Some commenters asked about the availability of the software that will be used to manage Levee Safety Program data as well as whether sponsors will be provided relevant software. In addition, commenters requested that software related to inspection data, the Levee Inspection System, be compatible with devices that are commonly used in the field such as "iOS devices which are common agency-issued phones."

In relation to understanding how to use software and upload data, commenters mentioned that the related websites (Levee Inspection System and National Levee Database (NLD)) need to be more accessible and contain clear directions. One commenter shared the following: "The Levee Inspection System website is not currently working correctly. It is not clear how to upload data collected from other devices or methods to the National Levee Database."

Commenters noted their interest in what standards would be put in place for uploading and maintaining quality data in the National Levee Database as well as how data would be validated to ensure accuracy. One commenter asked the following: "What is the data validation process and what are the minimum required data standards? What standards do the Levee Sponsors need to meet in data submission?" There were also comments asking about the process that would be instituted for disputing or challenging the data and working to rectify incorrect data. For example, one commenter asked that USACE "provide a means by which a levee sponsor can identify in

the NLD that there is incorrect information, and have it shown in the NLD that they have submitted a request for correction.”

Several comments were related to the accessibility of data, especially information that was previously restricted. Some acknowledged the benefit of having access to the data, while others questioned why other information would still not be available, such as risk assessment reports:

“The Seminole Tribe understands that some information contained in the risk assessment report could possibly pose a security risk. However, without a detailed description of how the USACE determines that risks are within tolerable limits, along with an explanation of how risk identified by USACE specifically informed the decision making process, it makes it extremely difficult for entities such as the Seminole Tribe to judge the risk to its reservations.”

Other commenters were interested in learning more about the local sponsor role in managing data and supporting the database entries as well as gaining a greater awareness of the software, process, and frequency for uploading, validating, reviewing, and accessing data.

### **Coordination/Collaboration**

Three (3) percent of the comments received were related to *coordination* or *collaboration*. There were 16 comments related to *coordination* or *collaboration*, representing 40 percent of all affiliation groups (*association, city/county agency, levee owner/operator, and nongovernmental organizations*). The comments expressed the importance of coordination with local emergency management authorities, coordination with other USACE programs impacting levee sponsors, and coordination with and among local sponsors to improve the inspection and risk assessment processes and identified ways to promote coordination/collaboration. One commenter shared the following:

“Levee sponsors should coordinate with other levee sponsors and the broader community when confirming and prioritizing planned mitigation actions. It would be useful to have some sort of forum (either an online forum or regular in-person/virtual Zoom type meeting) where levee sponsors can collaborate about different levee related topics.”

There were a few commenters who believed that USACE should develop a framework for local sponsors, USACE districts, and other pertinent agencies to work collaboratively to expedite permitting and regulatory approvals, such as Section 408 permissions, with one commenter stating: “We welcome the opportunity for local sponsors to work with USACE districts to develop procedures for coordinating permit requests on or around levee systems.” Another commenter thought that the process for tracking levee risk should be emphasized as a collaborative effort among levee maintaining agencies (LMAs), the local sponsor, and USACE.

Other commenters stated that the need for providing information on sharing information is necessary for managing levees: “Technical resource sharing, such as risk assessment tools, is critical to establish true partnership. Proposed guidance does not establish resource sharing mechanism. At a minimum, risk assessment tools with proper training shall be shared with Local Sponsor.

Comments were also received regarding direct engagement with levee sponsors and their role in program management: “One of the guiding principles of the Levee Safety Program is to ensure open and transparent engagement. Levee Sponsors are offered to engage in all program activities. How will Levee Sponsors be involved in program monitoring and program management plan?”

### **Operations and Maintenance**

Three (3) percent of the comments received were related to *operations and maintenance* (O&M). There were 17 comments related to O&M, representing 70 percent of all commenters (*anonymous, association, city/county agency, commercial entity, federal agency, levee owner/operator, and state agency*). In relation to O&M, there were comments about how required permitting and regulatory approvals can impede the ability of local sponsors to complete repairs, as well as comments about the types and frequency of maintenance activities.

A commenter noted that routine maintenance is a preparedness activity that should be emphasized more in the text: “A primary way a levee sponsor prepares for a flood is by maintaining their levee. O&M is alluded to here, but it is put into a context of anticipating levee performance.” Other commenters noted that the responsibility for updating O&M manuals was not clear. Commenters indicated “USACE expertise will be beneficial for template and review; however, currently the responsibility for updating O&M manuals is unclear. Consideration should be given to establishing a process where routine updates are done by the sponsors and approved by USACE.”

### **Emergency Management**

Three (3) percent of comments received were related to *emergency management*. There were 14 comments related to *emergency management*, representing 50 percent of all affiliation groups (*anonymous, association, city/county agency, levee owner/operator, and state agency*). Comments related to *emergency management* ranges from asking for additional details to questions about specific phases of the disaster lifecycle.

One commenter asked for additional detail for preparedness: “In Chapter 2 Preparedness, it would be helpful if the Corps could provide guidance on the amounts of various flood fighting supplies, materials and equipment would be needed for a particular project.” Other commenters shared questions related to response activities, asking, “Are the response activities listed in Tables II.3.1 and II.3.2 mandatory or are they recommendations?”

More specific comments were also provided associated with in the content of emergency plans, requirements for stockpiling materials, and clarification on advanced measures. One commenter suggested that emergency plans “should include location of replenished supplies and how long it could take to get to the site for implementation. This will allow crews onsite to make adjustments if needed.”

### **Costs/Benefits**

Two (2) percent of the comments received were related to the *cost and benefits* of levee projects. There were 8 comments related to *costs/benefits*, representing 30 percent of all affiliation groups (*association, levee owner/operator, and nongovernmental organizations*). Commenters questioned how benefits were being considered in the risk management approach. There was concern that benefits were being translated into consequences and could alter the value that levees provide to communities.

One commenter expressed that “the proposed EC misrepresents project benefits as floodplain consequences to promote misaligned regulatory directives and likely disinvestment in the very projects that deliver substantial value to local communities and the Nation.” There were also comments about how including the life safety risk into the benefit calculation misrepresents project benefits as floodplain consequences.

It was also noted that, based on the current understanding of benefit-cost ratio (BCR) calculations, tolerable risk and life safety are not likely to favorably influence USACE project development and implementation. The commenter shared the following: “As long as USACE and the White House Office of Management and Budget (OMB) continue use of the benefit versus cost analysis to make recommendations on projects to Congress, these benefit categories need to reflect the true value to the nation of flood damage reduction projects, including life safety.”

### **Funding**

Two (2) percent of the comments received were related to *funding*. There were 10 comments related to *funding*, representing 40 percent of all affiliation groups (*association, commercial entity, levee owner/operator, and state agency*). Commenters asked if the sponsor pre-flood actions identified were reimbursable and requested clarification of items included under sponsor costs. There were also comments about the cost-recovery process.

One commenter indicated that “it is not clear if the recovery procedures are suggestions or requirements. Are recovery funds tied to compliance with the list?” Another commenter requested a staggered approach to the risk assessment and inspection schedule: “All risk assessments will be updated at a minimum every 10 years in conjunction with a formal levee inspection. Please coordinate the 10-year schedule with adjoining Corps Districts so all of the [sponsor’s] Flood Projects do not occur in the same year!”

### **Communication**

One (1) percent of the comments received were related to *communication*. There were 5 comments related to *communication*, representing 40 percent of all affiliation groups (*city/county agency, commercial entity, levee owner/operator, and state agency*). For this topic, there were suggestions for greater interaction with USACE as well as forums that encourage levee sponsors to share experiences and collaborate about different levee-related topics.

There were also comments related to communicating with the local sponsor prior to sharing information with others or making decisions. An instance where this communication is desired would be after the completion of an inspection and prior to the inspector uploading the results to the NLD: “(EC) indicates that levee inspectors would immediately upload inspection data and results to the National Levee Database in the field using a field tool. This statement seems to indicate the levee sponsor would not be afforded the opportunity to review, clarify, discuss, or comment on these inspection results prior to upload.”

Local sponsors also questioned the expectations associated with their role in risk communication as well as the support that USACE would be providing.

### **EC Focus**



One (1) percent of the comments received were related to the *focus of the EC*. There were 6 comments related to *EC focus*, representing 30 percent of all affiliation groups (*city/county agency, commercial entity, and levee owner/operator*). These comments primarily related to areas where commenters felt there was a need to adjust the overall emphasis of the Engineer Circular content or where commenters felt information is missing to understand the central nature of the guidance.

Often, these comments highlight content that may have been misinterpreted or not presented with sufficient context and description. For example, one commenter provided feedback on the Levee Safety Program based on how the Engineer Circular was interpreted, indicating their feeling that “the focus of this LSP is on the negative consequences, rather than building on the positive consequences sustaining and improving flood control can bring. It reframes the valuation of the protection our projects afford flood prone areas.”

Some comments included suggested clarifying text on the intent of issuing the guidance, asking that USACE more clearly explain the goals and objectives by adding a statement such as the following: “Engineer Circular will be temporary in nature and will expire two years after the date of publication, providing USACE time to learn through implementation experience, identify clarifications or additional resources required, and to work with our partners in implementing the program. After two years, the Engineer Circular will either be revised, rescinded, or converted to an Engineer Regulation, which does not expire.”

### **Training**

One (1) percent of the comments received were related to *training*. There were 6 comments related to *training*, representing 30 percent of all affiliation groups (*association, levee owner/operator, and state agency*). Along with the concerns raised in relation to adding additional or new sponsor responsibilities, commenters identified the need for providing training to support completing the requirements listed in the draft EC, asking that USACE offers “regular opportunities [trainings] to bring sponsor staff and USACE staff all on the same inspection page would be beneficial.”

### **Next Steps**

Comments and feedback received during the open comment period on the draft Engineer Circular 1165–2–218: U.S. Army Corps of Engineers Levee Safety Program have been key to helping USACE understand where adjustments are needed to make clear the program intent, key activities, and roles and responsibilities. USACE will revise the guidance using the input received and make an updated draft available for stakeholders and levee sponsors to review and provide input on.

This guidance will be published as an Engineer Circular, which will expire two years after the date of publication. The temporary nature of the Engineer Circular provides USACE, levee sponsors, and stakeholders the opportunity to learn by doing during the two-year period. Continued dialogue about the guidance and what is or is not working during implementation will be important to help USACE update and convert this interim guidance to an Engineer Regulation, which does not expire.

Prior to finalizing the Engineer Circular, USACE will continue to host on request small group meetings about the Levee Safety Program and draft guidance. Meetings can be requested by submitting a request by email to

[EC18@usace.army.mil](mailto:EC18@usace.army.mil). Summaries of major topics of discussion during these meetings will be added to this comment summary resource as an appendix.

**Appendix A: List of Commenters by Affiliation**

This appendix summarizes comments received by organization or agency and includes information about the primary commenter or in cases where the comments were provided by letter, a list of who signed that letter.

Table 2: List of Commenters by Affiliation

<b>Organization/Agency</b>
<b>Anonymous</b>
Anonymous 1
Anonymous 2
Anonymous 3
Anonymous 4
Anonymous 5
Anonymous 6
<b>Association</b>
National Association of Flood & Stormwater Management Agencies
National Waterways Conference, Mississippi Valley Flood Control Association, Floodplain Alliance for Insurance Reform
Association of State Floodplain Managers, Inc. (ASFPM)
Bay Area Flood Protection Agencies Association
California Central Flood Control Association
Upper Mississippi, Illinois & Missouri Rivers Association (UMIMRA)
<b>City/county agency</b>
City of Cincinnati Stormwater Management Utility
Riverside County Flood Control and Water Conservation District
Augusta Engineering Department
Louisa County, Iowa Board of Supervisors
Des Moines County, Iowa Board of Supervisors
City of Allentown, PA and Lehigh County Authority
Santa Barbara County Public Works Department
Kansas City, Missouri
<b>Commercial entity</b>
Mundell & Associates, Inc.
Mathews Consulting, LLC
<b>Federal agency</b>
Naval Facilities Engineering Command Joint Base Anacostia-Bolling (NAVFAC Washington – PWD JBAB)
<b>Levee owner/ operator</b>
Arlington County, Virginia
California Zone 7 Water Agency
Flood Control District of Maricopa County, Arizona
Central Valley Flood Protection Board
Big Island River Conservancy District

<b>Organization/Agency</b>
Multnomah County Drainage District #1
Santa Cruz County – Zone 7 Flood Control and Water Conservation District
Valley Water
Ventura County Public Works Agency-Watershed Protection
Reclamation District No. 17 (California)
Los Angeles County Flood Control District
Tarrant Regional Water District
Sny Island Levee Drainage District
<b>Nongovernmental organization</b>
Coalition to Protect the Missouri River
Floodplain Alliance for Insurance Reform
Great Rivers Habitat Alliance
<b>Private citizen</b>
Jay Davis
Al Muhlenbruck
<b>State agency</b>
Coastal Protection and Restoration Authority
New York State Department of Environmental Conservation (NYSDEC)
Department of Public Works (Springfield, MA)
<b>Tribal nations</b>
Heritage and Environment Resources Office – Seminole Tribe of Florida
Seneca Nation of Indians

**Appendix B: Summary of Major Topics of Discussion During Small Group Meetings**

This appendix will be updated once small group virtual and in-person meetings about the Levee Safety Program and draft guidance are completed. It is anticipated that these meetings will be completed by January 2021.