

COASTAL WETLANDS PLANNING, PROTECTION AND RESTORATION ACT (CWPPRA)



STANDARD OPERATING PROCEDURES

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STANDARD OPERATING PROCEDURES

1. APPLICABILITY

This manual is applicable to all CWPPRA agencies and the local sponsor in the management of CWPPRA projects. These standard procedures shall not supersede nor invalidate any rules or regulations internal to any agency.

2. REFERENCES

- a. Pub. L. 101-646, Coastal Wetlands Planning, Protection and Restoration Act, hereinafter referred to as the “CWPPRA.”
- b. Pub. L. 91-646, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by Title IV of Pub. L. 100-17, the Surface Transportation and Uniform Relocation Assistance Act of 1987.

3. PURPOSE

The purpose of the SOP is to establish standard procedures in the management of CWPPRA projects. The procedures cited herein are not inclusive of all activities in the CWPPRA program; rather, provide guidelines for collaboration/coordination between the agencies for recurring activities. The procedures cited herein are to be used as general guidelines for coordination and are not meant to limit the Task Force’s ability to make decisions regarding the most effective and efficient use of resources to accomplish the goals of CWPPRA.

4. DEFINITIONS

The definitions in Section 302 of CWPPRA are incorporated herein by reference.

- a. The term “Agencies” shall mean the agencies listed in CWPPRA that make up the Louisiana Coastal Wetlands Conservation and Restoration Task Force, and the Louisiana Coastal Protection and Restoration Authority (CPRA).
- b. The term “Federal Sponsor” shall mean the federal agency assigned to a CWPPRA project with the responsibility to manage the implementation of the project.
- c. The term “Local Sponsor” shall mean the State of Louisiana as represented by the Louisiana CPRA unless otherwise specified.
- d. The term “Technical Committee” shall mean the committee established by the Task Force to provide advice on biological, engineering, environmental, ecological, and other technical issues.

- e. The term “Planning and Evaluation Subcommittee” shall mean the working level committee established by the Technical Committee to form and oversee special technical workgroups to assist in developing policies and processes, and recommend procedures for formulating plans and projects to accomplish the goals and mandates of CWPPRA.
- f. The term “Priority Project List (PPL)” shall mean the annual list of projects submitted by the Task Force to Congress in accordance with Section 303(a) of CWPPRA.
- g. The term “total project cost” shall mean all federal and non-federal costs directly related to the implementation of the project, which may include but are not limited to engineering and design costs; lands, easements, servitudes, and rights-of-way costs; project construction costs; construction management costs; relocation costs; pre-construction, construction, and post-construction monitoring costs; operation, maintenance, repair, replacement, and rehabilitation (OMRR&R) costs; supervision and administration costs (including training, equipment, and supplies); environmental compliance [cultural resources, National Environmental Policy Act (NEPA), and Hazardous, Toxic and Radioactive Waste (HTRW)]; and other costs as otherwise provided for in the cost sharing agreement.
- h. The term “total project expenditures” shall mean the sum of all federal expenditures for the project and all non-federal expenditures for which the federal sponsor has granted credit.
- i. The term “Cost Sharing Agreement” shall mean any agency agreement entered into by the federal sponsor and the local sponsor for engineering and design, real estate activities, construction, monitoring, and OMRR&R of a project in accordance with Section 303(f) of CWPPRA.
- j. The term “life of the project” shall mean 20 years from completion of construction of the project or functional portion of the project, unless otherwise stated in the cost sharing agreement for the project.
- k. The term “project funding categories” shall mean the six distinct project-funding areas:
 - 1. Engineering and Design (E&D)
 - 2. Real Estate
 - 3. Construction
 - 4. Monitoring
 - 5. OMRR&R
 - 6. Corps of Engineers (COE) Program Management Costs

For cash flow management projects (see Section 4.q), the Real Estate and Monitoring project funding categories will be further sub-categorized as Phase 1 and Phase 2. E&D will be categorized as Phase 1 only while Construction and OMRR&R will be categorized as Phase 2 only.

- l. The term “escrow account” shall mean the bank account established by the local sponsor in accordance with the CWPPRA escrow agreement executed between the COE, the local sponsor, and the financial institution selected by the local sponsor to act as custodian for the escrow account.
- m. The term “overgrazing” shall mean allowing cattle and other grazing animals to forage within the project lands; easements or rights-of-way to the detriment of the wetlands.
- n. The term “State fiscal year” shall mean one fiscal year of the State of Louisiana, beginning July 1 and ending June 30 of the following calendar year.
- o. The term “federal fiscal year” shall mean one fiscal year of the government, beginning October 1 and ending September 30 of the following calendar year.
- p. The term “Conservation Plan” shall mean the Coastal Wetlands Conservation Plan prepared by the State of Louisiana in accordance with Section 304 of CWPPRA.
- q. The term “cash flow managed projects” shall mean those projects that are approved and funded in two phases during the winter Task Force meeting. Phase 1 will generally include those pre-construction activities as defined in Section 4.r and Phase 2 will generally include those activities approved by the Task Force as defined in Section 4.s. While the two phases will be fully funded when approved by the Task Force, long term Phase 2 OMRR&R and post-construction monitoring funds will only be made available on a yearly basis (to be approved at fall budgeting meetings) in three year increments. Cash flow managed projects are generally those projects approved on PPLs 9 and later, and also for all projects that receive O&M cost increase requests (beyond the approved 20-year estimate) in accordance with Section 6.n(2).
- r. The term “Phase 1” shall include, but not be limited to, engineering and design activities including data collection, environmental compliance (cultural resources, NEPA, HTRW) and permitting, project management, oyster lease survey and evaluation, and real estate requirement up to, but not including, the purchase of real estate. Phase 1 activities also include assessment of environmental benefits, pre-construction monitoring, monitoring plan development, and engineering and design, and draft OMRR&R plan development (named the Projects Operations and Schedule Manual when referring to COE projects).
- s. The term “Phase 2” shall mean construction (including project management, contract management, and construction supervision & inspection), post-construction monitoring (to include construction phase biological monitoring), OMRR&R, and the purchase of real estate.
- t. The term “October and January budgeting meetings” shall mean the budget meetings at which the Task Force approves OMRR&R, monitoring, design, and construction funding for the program. The following will be considered at the October budgeting meeting: OMRR&R, monitoring, and COE administrative cost approvals. PPL Phase 1 and 2 approvals will be considered at the January budgeting meeting.

5. GENERAL

a. RESPONSIBILITIES

(1) Federal Sponsor:

- (a) Assure that funds spend on a project are spent in accordance with the project's cost sharing agreement and CWPPRA.
- (b) Perform any audits of the local sponsor's credits for the project as required by the project's cost sharing agreement and the individual agency's regulations.
- (c) No later than September 30 of each year, the federal sponsor shall provide the local sponsor with an annual statement of prior State fiscal year expenditures in a format agreeable to the local and federal sponsor.
- (d) As necessary, federal sponsors will review funds with each approved project under their purview to approve work-in-kind credits and determine whether funds may be returned to the Task Force. Funds may be returned to the Task Force by the simple deobligation process covered in Section 6.q. Federal sponsors should provide the status of potential obligations in the Remarks section of the program summary database.

(2) Local Sponsor:

- (a) Provide the necessary funds as required by the project's cost sharing agreement and Pub. L. 101-646.
- (b) Perform any work-in-kind required by the cost sharing agreement.
- (c) Furnish the federal sponsor with the documentation required to support any work-in-kind credit requests.
- (d) Unless otherwise specified, all correspondence to the local sponsor shall be addressed to:

State of Louisiana
Office of Coastal Protection and Restoration
P.O. Box 44027
Baton Rouge, LA 70804-4027

(3) COE (as funds administrator):

- (a) For the purposes of funds control, and at the request of the Task Force, the COE will act as bookkeeper, administrator, and disbursers of all federal and non-federal funds. All correspondence from the agencies and the local sponsor to the COE

regarding funding requests and the status of funding requests shall be sent by e-mail to the CWPPRA Program Analyst or addressed to:

U.S. Army Corps of Engineers
ATTN: CEMVN-PM-BC
7400 Leake Avenue
New Orleans, LA 70118

- (b) Use COE financial accounting procedures.
- (c) Manage the funds for the project.
- (d) Disburse project funds as requested by the federal sponsor.
- (e) Regularly report to the agencies and the local sponsor on the status of the project accounts.
- (f) Within 90 days of receipt of the local sponsor's annual work-in-kind credits, and upon request of the federal sponsor, the COE will provide a report on project expenditures for the last State fiscal year to the federal sponsor.
- (g) Provide program management duties, e.g. PPL reports, minutes of meetings, distribution of planning documents, etc.

b. COST SHARING

- (1) Pre-State Conservation Plan: As provided in Section 303(f) of CWPPRA, prior to the approval of the State Conservation Plan, the federal share of the total project cost was 75% and the non-federal share of the total project cost was 25%.
- (2) Post-State Conservation Plan:
 - (a) General: As provided for the Louisiana Coastal Wetlands Conservation Plan, effective December 1, 1997, cost sharing was revised for unexpended funds from 75% federal and 25% non-federal to 85% federal and 15% non-federal for all future Priority List projects and Priority Lists 1 through 4 projects. For Priority Lists 5 and 6 projects, cost sharing was revised from 75% federal and 25% non-federal to 90% federal and 10% non-federal.
 - (b) Definitions¹: The term "total project expenditures," as stated in Section 4.h, shall mean the sum of all federal expenditures for the project all non-federal expenditures for which the federal sponsor has granted credit. Expenditure is a disbursement of funds for charges incurred for goods and services.

¹ At the December 16, 1997 Joint Meeting of the P&E Subcommittee and the Technical Committee the term "expenditure" was further clarified as being on a cash basis. For example, work-in-kind (WIK) and costs paid would be considered expenditures. However, costs submitted would not be considered an expenditure.

- (c) Implementation: All expenditures that were incurred through November 30, 1997 (invoices that were submitted to CEMVN-PM-BC and all funds disbursed by check), will be considered part of the original cost sharing percentages. These expenditures will be subtracted from the approved current estimates and cost shared at 75% federal and 25% non-federal. The remaining funds expended beginning December 1, 1997 will be considered part of the revised cost sharing provisions.
- (d) Cost Sharing Agreements: Future cost sharing agreements will reflect the new cost sharing percentages and existing cost sharing agreements will be amended to reflect the new cost sharing percentages.
- (e) Database: As stated in Section 5.a(1)(a), the COE will act as bookkeeper, administrator, and disbursing officer of all federal and non-federal funds. A database is in place to record all estimates, obligations, and expenditures. Federal sponsors will keep the COE informed of current approved project estimates and schedules in order to have the latest information in the database.

c. MANAGEMENT OF FUNDS

(1) Escrow Agreement:

- (a) There will be only one escrow account established for all CWPPRA projects. The COE, the local sponsor, and the financial institution chosen by the local sponsor shall execute the basic escrow account agreement in a form agreeable to all parties.
- (b) Within the one escrow account, the COE shall maintain separate financial sub-accounts, one for each project covered by the escrow agreement, and allocates project funds only to the extent that funds are available in the project sub-account. Non-government escrow shall be in the project sub-accounts.
- (c) Upon execution of the escrow agreement, and in accordance with the cost sharing agreement, the local sponsor shall deposit in the escrow account established for the CWPPRA projects, or send a check addressed to the COE, with an amount equal to the difference between 25% (15% after the Conservation Plan is approved except 5th and 6th PPL projects for which the percentage is 10%) of the total project expenditures to date and the amount of expenditures by the local sponsor for which the federal sponsor has granted credit. In addition, the local sponsor shall also deposit 25% (15% after the Conservation Plan is approved except 5th and 6th PPL projects for which the percentage is 10%) of the estimated total project costs for the remainder of the State fiscal year less any anticipated expenditures by the local sponsor.

- (d) In accordance with Section 303(f)(3) of CWPPRA, the local sponsor shall provide a minimum of 5% of the total project cost in cash. In order to properly account for these funds, the local sponsor shall deposit into the escrow account or send a check addressed to the COE for at least 5% of the estimated expenditures.
- (2) Work-in-Kind: Credit for work-in-kind or other activities performed by the local sponsor will be granted as follows:
- (a) By September 1 of each year the local sponsor shall submit to the federal sponsor a statement of expenditures in a format agreeable to the federal sponsor. This task is required at least once a year, but may be completed twice a year, if the federal sponsor prefers. It is the federal sponsor's responsibility to assure that the amount of credit given is in accordance with the cost sharing agreement and applicable regulations and, if required, audits are performed.
 - (b) After review and approval, but no later than 90 days after receipt of the statement of expenditures from the local sponsor, the federal sponsor shall forward to the Corps of Engineers, New Orleans District, ATTN: CEMVN-PM-BC, with copy to the local sponsor, a request that credit be given to the local sponsor for the work performed. This statement shall indicate the amount of credit to be granted to the local sponsor, by project funding category, and the period covered.
 - (c) The COE will give credit to the local sponsor on the project in the amount stated and inform both the local sponsor and the federal sponsor of the current status of funding and cost sharing for the project.
- (3) Funding Adjustments: Whenever the COE determine that:
- (a) The local sponsor's share of the project cost to date, including cash and credits granted under Section 5.c(2)(c), is less than the required 25% (15% after the Conservation Plan is approved, except 5th and 6th PPL projects for which the percentage is 10%) of the total project cost to date; and/or
 - (b) The local sponsor has paid in cash less than the required 5% of the total project cost to date; and
 - (c) Insufficient funds for the project are on deposit in the escrow account to cover the deficit; then the COE will inform both the local sponsor and the federal sponsor of the deficiency and request that the local sponsor deposit into the escrow account or send a check for the necessary funds.
- (4) Transfer of Funds Between Projects: The local sponsor may request the transfer of excess project funds in its escrow account from one project to another provided that:
- (a) The COE agrees in writing that the funds are excess to the project; and

- (b) The federal sponsor of the project losing the funds agrees in writing to release the funds; and
- (c) The federal sponsor of the project gaining the funds agrees in writing to the funds transfer.

d. PROJECT COST LIMITS

- (1) Non-Cash Flow Projects: The total project cost may exceed the original estimate by up to 25% without the federal sponsor formally requesting a cost increase from the Task force. If the estimated total project cost is anticipated to exceed the original estimate by more than 25%, the federal sponsor, with the concurrence of the local sponsor, may request approval from the Technical Committee with subsequent approval by the Task Force for additional funds as indicated in Section 6.e(2). If the increase is approved by the Task Force, no additional increase shall be allowed without the explicitly approval of the Task Force. An increase of more than 25% for an individual funding category, except for monitoring as stated in Section 5.d(3), does not require specific Task Force approval unless the increase causes the total project cost to exceed the original estimate by more than 25%. Demonstration project costs are capped at 100% even though they follow non-cash flow procedures.
- (2) Cash-Flow Projects:
 - (a) Phase 1: The Phase 1 cost may not exceed the original Phase 1 estimate without the federal sponsor formally requesting a cost increase from the Task Force. If the estimated total cost of Phase 1 is anticipated to exceed the original PPL Phase 1 estimate, the federal sponsor, with concurrence of the local sponsor, may request approval from the Technical Committee with subsequent approval by the Task Force for additional Phase 1 funds as indicated in Section 6.e(3).
 - (b) Phase 2: The Phase 2 cost may not exceed the Phase 2 cost estimate without the federal sponsor formally requesting a cost increase from the Task Force. If the estimated total cost of Phase 2 is anticipated to exceed the Phase 2 funding approved by the Task Force, the federal sponsor, with the concurrence of the local sponsor, may request approval from the Technical Committee with subsequent approval by the Task Force for additional Phase 2 funds.
- (3) Exceptions: For those monitoring and OMRR&R category estimates that were formally reviewed and approved by the Task Force on July 28, 1998, and January 20, 1999, respectively, increases in those categories above the approved estimates shall be requested by the federal sponsor, with the concurrence of the local sponsor, from the Technical Committee with subsequent approval by the Task force. These requests may occur at any Task Force meeting. Additionally, the monitoring category is capped for all projects at 100% of the original estimate approved by the Task Force and may not exceed this amount without the explicit approval of the Task Force.

- (4) Disputes: Neither the COE, as funds administrator, nor any federal sponsor shall be a party to any disputes that may arise between another federal sponsor and the local sponsor under a project's cost sharing agreement.

6. PROCEDURES

a. PROJECT PLANNING AND SELECTION

- (1) CWPPRA Committees: Following is a description of the general duties of the primary organizations formed under CWPPRA to manage the program; however, these duties are not all inclusive of all the duties performed by the committees:
- (a) Coastal Wetlands Conservation and Restoration Task Force: Typically referred to as the "Task Force" (TF), it is comprised of one member each, respectively, from five federal agencies and the State of Louisiana. The federal agencies of CWPPRA include the Fish & Wildlife Service (FWS) of the U.S. Department of Interior, the Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture (USDA), the National Marine Fisheries Services (NMFS) of the U.S. Department of Commerce (USDC), the Environmental Protection Agency (EPA), and the U.S. Army COE. The Governor's Office of the State of Louisiana represents the state on the TF. The TF provides guidance and direction to subordinate organizations of the program through the Technical Committee (TC), which reports to the TF. The TF is charged by CWPPRA to make final decisions concerning issues, policies, and procedures necessary to execute the program and its projects. The TF makes directives for action to the TC, and the TF makes decisions in consideration of the TC recommendations. The District Commander of the USACE, New Orleans District, is the Chairman of the TF. The TF Chairman leads the TF and sets the agenda for action of the TF to execute the program and projects. At the direction of the Chairman of the TF, the New Orleans District: (1) provides administration management, oversight of the Planning and Construction programs, and acts as accountant, budgeter, administrator, and disbursing officer of all federal and non-federal funds under CWPPRA, (2) acts as the official manager of financial data and most information relating to the CWPPRA program and projects.

The State of Louisiana is a full voting member of the TF except for selection of the PPL [Section 303(a)(2) of the CWPPRA], as stipulated in President Bush's November 29, 1990, signing statement of the CWPPRA. In addition, the State of Louisiana may not serve as a lead TF member for design and construction of wetland projects on a PPL.

- (b) Technical Committee: The TC is established by the TF to provide advice and recommendations for execution of the program and projects from a number of technical perspectives, which include engineering, environmental, economic, real estate, construction, operation and maintenance, and monitoring.

- (c) **Planning and Evaluation Subcommittee:** The Planning and Evaluation Subcommittee (P&E) is the working level committee established by the TC to form and oversee special technical workgroups to assist in developing policies and processes, and recommend procedures for formulating plans and projects to accomplish the goals and mandates of CWPPRA. The seat of the Chairman of the P&E currently resides with USACE, New Orleans District. The P&E Chairman leads the P&E and sets the agenda for action of the P&E to make recommendations to the TC for executing the program and projects. At the direction of the Chairman of the TC, the Chairman of the P&E executes the management and administrative work directives of the TC and TF Chairs.
 - (d) **Environmental Workgroup:** The Environmental Workgroup (EnvWG), under the guidance and direction of the P&E, reviews candidate projects to: (1) suggest any recommended measures and features that should be considered during engineering and design for the achievement and/or enhancement of wetland benefits, and (2) determine the estimated annualized wetland benefits [Average Annual Habitat Units (AAHU)] of those projects. The seat of the Chairman of the EnvWG currently resides with the FWS.
 - (e) **Engineering Workgroup:** The Engineering Workgroup (EngWG), under the guidance and direction of the P&E, provides engineering standards, quality control/assurance, and support for the review and comment of the cost estimates for engineering, environmental compliance (cultural resources, NEPA, and HTRW), economic, real estate, construction, construction supervision and inspection, project management, operation and maintenance, and monitoring of candidate and demonstration projects considered for development, selection, and funding under CWPPRA. The seat of the Chairman of the EngWG currently resides with the USACE, New Orleans District.
 - (f) **Economic Workgroup:** The Economic Workgroup (EcoWG), under the guidance and direction of the P&E, reviews and evaluates candidate projects that have been completely developed, for the purpose of assigning the fully funded first cost of projects, based on the estimated 20-year stream of project costs. The seat of the Chairman of the EcoWG currently resides with the USACE, New Orleans District.
 - (g) **Monitoring Workgroup:** The Monitoring Workgroup (MonWG), under the guidance and direction of the P&E, reviews and evaluates current standards, quality control/assurance, and programmatic monitoring issues. An Academic Advisory Group (AAG) provides technical leadership when necessary. The seat of the co-chairmen of the MonWG currently resides with the local sponsor (CPRA Monitoring Program Manager) and USGS.
- (2) **October and January Budgeting Meetings:** Each year the TF shall have two budgeting meetings (referred to below as the October and January budgeting meetings). Funding decisions for Phase 1 and Phase 2 PPL projects and

demonstration projects will be considered at the January budgeting meeting at the discretion of the TF after considering the recommendations of the TC. At the October budgeting meeting, the TF will consider monitoring and OMRR&R funding requests and Corps administration costs as recommend by the TC. The TF will review the process each year to determine the effect on the overall program and may decide at any time to modify the process. Approved budgets shall include all expenses necessary to support CWPPRA staff engaged in planning or project work (including training and equipment) and should be charged to the appropriate planning or project budget(s).

(3) Planning:

- (a) Each year no more than \$5 million will be set aside for planning from the total available annual program allocation, in accordance with Section 306(a)(1) of PL 101-646. These funds shall remain available for budgeting and reprogramming during any fiscal year after the funds are set aside. At the June meeting, the TF shall review unallocated funds from the previous years and may program some or all of these funds in addition to the \$5 million for the current year. Nevertheless, in no case will more than \$5 million be set aside annually for planning from the total available annual program allocation. Agency planning budgets should be consistent with itemized approved budget estimates; however, the TF recognizes the itemized task categories are not inclusive of all activities necessary to accomplish the goals of CWPPRA and are primarily used to develop the overall planning budget estimates. The TF recognizes that agencies may not be able to accurately estimate the level of effort required for each of the task categories at the time budgets are approved. Therefore, agencies can move funds among these categories without Task Force approval as long as the overall planning budget is not exceeded for the respective agency. Generally, the planning process shall include the nomination, development, and evaluation of proposed projects by the Engineering, Environmental, and Economic workgroups.
- (b) During the evaluation of PPL candidate projects, federal sponsors will provide cost estimates and spending schedules for each project to the P&E Subcommittee prior to project ranking. Spending schedules will be developed through the end of the project life. The cost estimates and schedules will be comprised of the following subcategories:

Subcategory A. **Phase 1 Engineering and Design** ² (includes Engineering and Design, Phase 1 Real Estate Requirements, oyster lease surveys and evaluations, environmental compliance (cultural resources, NEPA compliance, and HTRW) and permitting, project management, and draft OMRR&R plan (named the Projects Operations and Schedule Manual when referring to the COE projects).

² Includes real estate requirements up to, but not including, the purchase of real estate.

- Subcategory B. **Phase 1 Pre-construction Monitoring** (includes Monitoring Plan Development)

- Subcategory C. **Phase 2 Construction** (includes Phase 2 real estate requirements, including acquisition of oyster leases, project management, contract management, and construction supervision and inspection)

- Subcategory D. **Phase 2 Post-Construction Monitoring** (includes construction-phase monitoring)

- Subcategory E. **Phase 2 OMRR&R**

- (c) The EngWG will review these estimates for consistency among projects. The P&E will provide a table of these subcategories along with the results of the EnvWG's evaluation to the TC. The TC will review these results along with the project budget requirements and schedules.

- (d) The TC will determine a recommended cutoff point, based on project cost effectiveness and other criteria to recommend to the TF.

(4) Annual Priority List: The CWPPRA project approval and budgeting process is to be accomplished in two phases. Approval and budgeting of Phase 1 would not guarantee approval and budgeting of Phase 2, which would involve competition among successful projects from Phase 1. At the January budgeting meeting, the TF may select projects for Phase 1 funding on the annual PPL, after considering the recommendation of the TC. At the time of Phase 1 approval, projects receive funding for Subcategories A and B. The Phase 2 process is described in Section 6.i and 6.j.

b. COST SHARING AGREEMENTS

- (1) For non-cash flow managed projects, prior to requesting permission from the TF to proceed with construction of the project, the project sponsors shall negotiate and execute the necessary cost sharing agreement using their own internal procedures. For cash flow managed projects, a cost sharing agreement will be negotiated and executed as soon as possible after Phase 1 approved by the TF.

- (2) Cost sharing agreement processing is as follows:
 - (a) Federal sponsor, if applicable, forwards draft cost sharing agreement to the local sponsor. For cooperative agreements, the local sponsor will initiate the agreement.

 - (b) After review and negotiations, the local sponsor, upon approval by the State of Louisiana CPRA Board, signs the cost sharing agreement and forward document(s) to the federal sponsor. The federal sponsor signs and executes the document(s) and forward copies to the local sponsor and forwards a copy to the

Corps of Engineers, New Orleans District, ATTN: CEMVN-PM-BC, for TF records and to aid in managing funds disbursement.

c. ESCROW ACCOUNT AMENDMENT

- (1) Once the cost sharing agreement is executed, the federal sponsor shall request from the Corps of Engineers, New Orleans District, ATTN: CEMVN-PM-BC, that an amendment to the escrow agreement be executed.
- (2) The COE shall forward to the local sponsor, in triplicate, the amendment for the escrow agreement.
- (3) After execution by the local sponsor and the financial institution, the local sponsor shall forward all copies of the amendment to the COE.
- (4) After execution by the COE of the escrow agreement amendment, an original copy of each shall be forwarded to the local sponsor and the financial institution. A copy of the escrow agreement amendment shall be forwarded to the appropriate federal sponsor.
- (5) The escrow agreement shall be amended, as required, to incorporate new projects as cost sharing agreements are executed.
- (6) The local sponsor is required to furnish an estimate of work-in-kind credits for the next State fiscal year of projects for which the corresponding federal sponsor or COE has requested such information.

d. PRE-CONSTRUCTION FUNDS DISBURSEMENT

- (1) Upon approval of a PPL by the TF, the COE will set up the necessary accounts for each project-funding category or subcategory and reserve funds in the amount estimated in the PPL report.
- (2) Within 30 days after receipt of a request for initial funds from the federal sponsor, the COE will prepare a Military Interdepartmental Purchase Request (DD Form 448), hereinafter referred to as MIPR, obligating funds up to a maximum of 85% of the PPL estimate for those pre-construction activities for which funds are being requested (except 5th and 6th PPL projects, where the maximum is 90%), plus the local sponsor's 5% cash contribution, to each federal sponsor in accordance with their request and subject to the availability of funds.

e. PRELIMINARY ENGINEERING AND DESIGN

- (1) Plan of Work: Federal and State sponsors shall develop a plan of work for accomplishing Phase 1. This plan shall include, but not be limited to: a detailed task list, time line with specific milestones, and budget, which breaks out specific tasks

such as geotechnical evaluations, hydrological investigations, modeling, environmental compliance (cultural resources, NEPA, and HTRW).

- (2) 30% Design Review: In order to resolve problems, anticipate cost growth and identify the best project alternative to meet intended project goals. A 30% Design Review shall be performed upon completion of a Preliminary Design Report. The Design Review is intended to verify the viability of the project and whether or not the federal and local sponsors agree to continue with the project. This review must indicate the project is viable before there are expenditures of additional Phase 1 funds.

Preliminary Design means all alternatives have been evaluated and a preferred alternative has been selected. Information used to make this determination shall be provided as supporting documentation at the Preliminary Design Meeting (30% review).

The Preliminary Design Report shall include 1) recommended project features, including a description of any project changes from that originally authorized; 2) all data collected and design analyses completed to date in support of project; 3) preliminary design typical drawings with enough detail to describe the proposed project features; 4) land ownership investigation; 5) information prepared by the local sponsor and provided to the federal sponsor indicating any oyster leases potentially impacted by the proposed project and a data sheet listing: lease number, lease acreage, lessee name, and other pertinent data; 6) preliminary cultural resources assessment; 7) revised project construction, OMRR&R, monitoring, and administrative cost estimates based on the current selected preliminary design. The revised OMRR&R costs should consider reducing long-term maintenance costs while maintaining project features to function as originally intended (i.e., sponsors should investigate the potential cost savings from investing more in initial construction (over-designing/over-building) in an effort to reduce future maintenance requirements; 8) updated information regarding potential project benefits.

The project sponsors shall jointly hold a 30% Design Review Conference to obtain respective concurrence to continue with design. The other agencies shall be notified by the project sponsors at least four weeks prior to the conference of the date, time and place, and invited to attend. Any supporting data shall be forwarded to the other agencies for their review two weeks prior to the conference. Invitations and supporting data shall be sent to agency representatives of the TC, P&E, and project managers. Agencies shall have 15 days after the 30% Design Review Conference to submit written comments. Project sponsors shall provide a written response to 30% Design Review comments within 30 days following the end of the commenting period.

Following response to written comments, the federal sponsor shall forward a letter (or e-mail) to the TC, with a copy to the P&E, including the revised estimate, a description of project revisions from the previously authorized project, agency

comments and responses, and a letter of concurrence from the local sponsor, informing them of the agreement to continue with the project. The TC may make a recommendation on whether or not to continue with the project.

For cash flow managed projects, if the estimates indicated that the Phase 1 cost will exceed the original approved amount, the sponsors may request approval from the TC with subsequent approval by the TF for additional funds to continue at a quarterly meeting. For non-cash flow managed projects, if the revised estimate indicates that the total project cost will exceed 125% of the original or current approved estimate, the sponsors shall request approval from the TC with the subsequent approval by the TF, at any TF meeting, to continue with the project.

In some cases, the TF may require an additional formal review, involving all the agencies, of the project design at an intermediate level to ensure that optimum benefits to wetlands and associated fish and wildlife resources are achieved.

- (3) Changes in Project Scope: If a project undergoes a major change in scope or a change in scope resulting in a variance of more than 25% from: (1) the total project cost, (2) the number of acres benefits, (3) total AAHUs, or (4) the ratio of the total cost to the number of acres benefited or total project cost to total project AAHUs, then the project sponsors will submit a report to the TC explaining the reason(s) for the scope change, the impact on cost and benefits, and a statement from the local sponsor endorsing the change. The TC will review the report and recommend to the TF approval or rejection of the change. Changes in project scope resulting in an increase in total project cost are discussed in Section 5.d.

f. PRE-CONSTRUCTION MONITORING

For projects that the sponsors intend to use project-specific monitoring elements, the federal sponsor shall provide project-specific goals and strategies to inform development of a monitoring plan and a budget by the local sponsor. Any required pre-construction monitoring will be funded in Phase 1 and would be accomplished in accordance with the project specific monitoring plan. Monitoring plans and budgets should be included as part of the Final Design Report. Construction and post-construction monitoring costs should be included in Phase 2 funding requests.

g. REAL ESTATE

(1) General:

- (a) Each federal or local sponsor shall follow the real estate procedures in use by that agency.
- (b) During preliminary engineering and design, the federal or local sponsor shall identify all real estate potentially impacted by the project.

- (c) After determining the property rights required, the federal or local sponsor shall obtain an estimated value of the real estate interest to determine the value of the lands, easements, and rights-of-way to be acquired.
- (d) For cash flow managed projects, real estate purchase will take place only during Phase 2.
- (e) For cash flow managed projects, between 30% and 95% design reviews, the local sponsor will have any potentially impacted oyster leases appraised and will forward the projected acquisition costs to the federal sponsor, as well as the supporting documentation for these cost projections, except for legally proprietary information. In the case of non-cash flow projects, this information will be provided prior to soliciting construction approval from the TF.

(2) Section 303(e) Approval:

- (a) In accordance with Section 303(e) of CWPPRA, the federal sponsor shall, prior to acquiring any lands, easements or rights-of-way for a CWPPRA project, obtain Secretary of the Army (or his designee) approval that the “project is subject to such terms and conditions as necessary to ensure that the wetlands restored, enhanced or managed through the project will be administered for the long-term conservation of such lands and waters and dependent fish and wildlife populations.”
- (b) In order to obtain approval in accordance with Section 6.g(2)(a), the federal sponsor shall furnish the COE the following information before requesting approval to proceed to construction for non-cash flow managed projects and before requesting approval to proceed with Phase 2 for cash flow managed projects:
 - i. Plan showing project limits and type of land rights required
 - ii. Language of land rights
 - iii. Certification that land acquisition is in accordance with all applicable federal and State laws and regulations
 - iv. Statement that all standard real estate practices will be followed in acquiring land rights
 - v. Overgrazing determination: statement from NRCS as to whether overgrazing in the project area is a problem and whether easements restricting grazing are required

One hard copy of the Section 303(e) request materials shall be sent to the below address. In addition, submit one copy of the 303(e) request materials electronically to the COE CWPPRA 303(e) point of contact (or the P&E Chairman and he will distribute accordingly).

U.S. Army Corps of Engineers
ATTN: CEMVN-PM-BC
P.O. Box 60267
New Orleans, LA 70160-0267

- (c) In the event of a project transfer to a different federal agency within the CWPPRA program, the 303(e) approval issued prior to the transfer will remain in effect, provided all other aspects upon which the certification was based remains the same. In the event of a project transfer to a non-CWPPRA program, any 303(e) certification issued through the CWPPRA process becomes null and void.
 - (d) In the event a project is inactivated but later reactivated within the CWPPRA program, the validity of the most recent 303(e) certification, if any exists, shall be reviewed and a determination made as to its validity or if resubmission of the 303(e) request materials are required.
 - (e) 303(e) certifications are assumed to be valid for the life of the project provided all conditions upon which the more recent certification issuance were based remain unchanged.
- (3) Real Estate for Non-Cash Flow Managed Projects: Federal sponsors shall ensure that real estate acquisition of easements requiring a significant expenditure of funds and pre-construction monitoring are not begun until the Engineering and Design is substantially completed and there is a reasonably high level of certainty that the project will proceed to the next phase.
- (4) Real Estate for Cash-Flow Managed Projects: The purchasing of real estate shall not occur until Phase 2. Preliminary real estate investigations, including preliminary ownership determination, should be initiated early in the project design activities.

h. FINAL ENGINEERING AND DESIGN

- (1) 95% Design Review: A 95% Design Review Conference shall be held by project sponsors at least four weeks prior to the winter TC meeting at which Phase 2 funds will be requested. As part of the 95% Design Review Conference, the project sponsors will provide a Final Design Report.

The other agencies shall be notified by the project sponsors at least four weeks prior to the conference of the date, time and place, and invited to attend. The project sponsors shall provide the Final Design Report, project plans, and all supporting information (e.g., surveys, geotechnical analysis, modeling reports, etc.) utilized in design of the project to other agencies for their review and comment at least two weeks prior to design review conference. Invitations and supporting data shall be sent to agency representatives of the TC and P&E.

Final Design means all analysis has been completed for the preferred alternative. Project plans and specifications have been developed and reviewed by the project team, and the project is ready to request funding for construction. All design documentation shall be provided at the Final Design meeting (95% review).

The Final Design Report shall include 1) a revised construction cost estimate; 2) a draft OMRR&R Plan and associated budget (named the Project Operations and Schedule Manual when referring to Corps); and a draft Monitoring Plan, if applicable. A draft updated Wetland Value Assessment (WVA) should be provided for concurrent review with the Final Design Report materials (two weeks prior to design review conference). The Final Design Report shall include all supporting data, along with a description of how the project differs in cost, features, and environmental benefits from the project approved during Phase 0. It should also include a response to the comments brought up at the 30% Design Review Conference.

After the conference, a letter of concurrence from the local sponsor indicating their willingness to continue with the project shall be sent to the TC and the P&E.

(2) Changes in Project Scope: Changes in projects cope will be addressed as stated in Section 6.e(3).

i. CONSTRUCTION APPROVAL FOR NON-CASH FLOW MANAGED PROJECTS

Prior to advertising for bids for the first construction contract, the federal sponsor shall request permission from the TC with subsequent approval by the TF, at any TF meeting or by electronic vote to proceed to construction. The request shall be addressed to the TC and P&E.

The request to proceed to construction will include at a minimum:

- (1) Description of the project, which includes a map clearly depicting the current project boundary and project features, detailed description of project features, and an updated fact sheet suitable for inclusion in the formal PPL documentation. In cases of substantial modifications/scope changes to original conceptual design or costs, describe the specific changes both qualitatively and quantitatively.
- (2) Section 303(e) Certification from the COE.
- (3) Overgrazing determination
- (4) Revised fully funded cost estimate approved by the EcoWG, and a WVA reviewed and approved by the EnvWG
- (5) A statement that the cost sharing agreement between the federal sponsor and the local sponsor has been executed.

(6) A statement that:

- (a) A draft Environmental Assessment of the project, as required under NEPA has been completed; and
- (b) A hazardous, toxic, and radiological waste (HTRW) assessment, if required, has been performed³.

j. PHASE 2 APPROVAL FOR CASH FLOW MANAGED PROJECTS

At the end of Phase 1, the project sponsors may request permission from the TC with subsequent approval by the TF to proceed to Phase 2. Permission to proceed to Phase 2 implies permission to proceed to construction. The request to proceed to Phase 2 will be in accordance with APPENDIX A – Information Required in Phase 2 Authorization Requests.

- (1) Phase 2 approval and funding requests will be evaluated at the January budgeting meeting, in accordance with Section 6.a(2). Federal sponsors should provide a list of projects eligible for Phase 2 approval. Projects shall not be eligible for Phase 2 approval until the requirements listed in APPENDIX A are satisfied. Due to limited funding, Phase 2 approval involves competition among successful projects from Phase 1.

At the time that project sponsors request Phase 2 approval, they shall provide an estimate of the project based on the 5 subcategories along with a spending schedule. The TF shall approve the total funds necessary for Phase 2 implementation, but shall only allot funds on an as-needed basis and will generally fund the entire amount of Subcategory C (Construction) and the first 3 years of both Subcategory D (Post-Construction Monitoring) and Subcategory E (OMRR&R).

At subsequent September TC and October TF meetings, the project sponsors should request approval to maintain 3 years of Subcategory D and E funding for each approved project; however, any additional funding (after the initial 3-year funding) shall not be allotted until project construction is completed. Individual project requests will be grouped with other requests and submitted for approval. Requests should be consistent with the previously approved budget for the project, unless additional information can be provided to justify the need for additional funds. When the request is more than the amount in the approved project's budget, the TC should review each specific request to determine if the amount should be approved. This programming procedure will ensure that, at any one time, an approved project has sufficient funds for 3 years of Subcategories D and E.

³ Agencies are cautioned to review the requirements for the "innocent landowner defense" under CERCLA, 42 U.S.C. 9601(35)(B), in cases involving the discovery of HTRW on lands, easements, servitudes and/or rights-of-way acquired for a project.

- (2) Subsequent to the October and January budgeting meetings, project sponsors may make a request to the committees at any time for additional funding that is needed for the current fiscal year when there is evidence that the project is progressing faster than expected, as long as those funds are utilized for the current phase of the project. Project sponsors shall specify under which subcategory additional funding is being requested.
- (3) If construction award has not occurred within 2 years of Phase 2 approval, the Phase 2 funds will be placed on revocation list for consideration by the TF at the next TF meeting. Requests to restore these funds may be considered at subsequent January budgeting meetings.

k. FUNDS DISBURSEMENT

- (1) Upon approval to begin Phase 1, the COE will issue to the federal sponsor a MIPR in the amount requested to cover up to a maximum of 75% of the Phase 1 cost (85% after the Conservation Plan is approved, except 5th and 6th list projects for which the percentage is 90%), as described in Section 6.d(2).
- (2) Upon TF approval to begin construction for non-cash flow managed projects or upon approval to begin Phase 2 for cash flow managed projects and deposit by the local sponsor of the required funds into the escrow account, the federal sponsor shall request that the COE issue a MIPR in the amount sufficient to cover the total construction and related costs of the project, up to the maximum federal allowed amount as described in Section 6.k(2).
- (3) In those cases where the local sponsor's annual work-in-kind plus cash contribution exceeds the cost sharing percentage, and at the request of the federal sponsor, the COE will disburse funds directly to the local sponsor to bring the project expenditures to the required cost sharing. The federal sponsor must approve the work-in-kind exceedance in advance.
- (4) Annually, agencies shall review all projects approved for funding in Phases 1 and 2, identify excess funds in those phases, and make a recommendation to the TF as to how much of those funds to return at that time. Returned funds shall be available for reprogramming . At the October and January budgeting meetings, the TF may also consider reprogramming excess funds that have not yet been returned to the TF. Agencies may return funds by returning a MIPR to the COE with a request to deobligate funds.

l. PROJECT BID OVERRUNS/UNDERRUNS

Pre-award:

- (1) Statement of Problem: Occasionally bids on CWPPRA projects may exceed the project cost limits. When bids exceed the project cost limits, the options are:

- (a) Option 1: Allow the acceptance period to expire and abandon the project
- (b) Option 2: Reject all bids, reduce the scope of the project, and re-advertise
- (c) Option 3: Request additional funding from the TC, and subsequently the TF, and award the contract

If option 2 or 3 is selected, the resulting cost effectiveness should be evaluated for substantial increases in cost/habit unit and cost/net acre. This will require a review of the change in benefits by the EnvWG. Provisions in bidding procedures by the State of Louisiana allow for acceptance of a bid within a 30-calendar day window after the offer is made. Provisions in bidding procedures by NRCS, under Federal Acquisition Regulations (FAR) allow for acceptance of a bid for a period of time determined at the time of solicitation. Provisions in bidding procedures by the COE, under FAR, mandate acceptance of a construction bid within a 30 calendar day window after the offer is made, unless the bidder grants an extension in 30 day increments.

(2) Project Bid Overruns: Required Procedure:

- (a) The final engineers cost estimate must have been reviewed and updated within 90 days prior to advertisement.
- (b) If the final estimate, prior to advertising, equals or slightly exceeds the project cost limits, the bid package should contain a base bid, and additive or deductive alternatives that would allow the project to be awarded within the project cost limits. The base bid with additive or deductive alternatives provides additional flexibility if the base bid is lower than anticipated.
- (c) If the final estimate is within the available funds (authorized amount) prior to bidding and the base bid without alternates approach was used but the bid exceed the project cost limits, the federal sponsor, with the concurrence of the local sponsor, will notify each of the agencies on the TF of their intention to request additional funds within 15 days of receipt of bids. The federal sponsor should also provide the other members of the TF bid data and any information that supports the request for additional funds at the same time.
- (d) If the final estimate is within the available funds (authorized amount) prior to bidding and the base bid with alternates approach was used but the bid exceeded the project cost limits, the federal sponsor, with the concurrence of the local sponsor, would apply deductive alternates to get the project within available funds. In no case should the federal sponsor implement without TF approval and local sponsor concurrence a deductive alternative that would reduce the original project's cost-effectiveness by more than 2%; this will require prior consultation with the P&E and the appropriate work groups. If after taking deductive alternatives the base bid still exceeds the project cost limits, the federal sponsor, with concurrence of the local sponsor, will

notify each of the agencies on the TF of their intention to request additional funds within 15 days of receipt of bids. The federal sponsor should also provide the other members of the TF bid data and any information that supports the request for additional funds at the same time.

(3) Project Bid Underruns: Required Procedure

- (a) In cases where the construction contract and final costs are lower than the approved construction budget, CWPPRA sponsoring agencies may either, 1) return the unexpended construction funds to the program, or 2) with Task Force approval, expand the project in a cost effective manner with the unexpended construction funds.
- (b) Project sponsors should send the Task Force a request to expand the project. That request should include; 1) the expansion project description and map, 2) expected amount of unexpended construction funds to be used, 3) estimate of additional benefits due to the proposed expanded project, and 4) an estimate of existing and project expansion cost effectiveness.
- (d) The Task Force shall hold an e-mail vote, within 1 week of the request. If the request is not approved by majority vote, the unexpended construction funds are returned to the CWPPRA program. If the expansion request is approved, the sponsoring agencies can alert the construction contractor to begin work and the sponsoring agencies shall provide a post-construction report to the Technical Committee and Task Force concerning the expansion benefits and final costs.

m. MONITORING

- (1) The TF authorized funding for the Coastwide Reference Monitoring System (CRMS) in 2003 to improve the capability of the monitoring program to evaluate the effectiveness of individual projects and the restoration program by providing a network of reference sites to compare to project sites. Data, monitoring reports and summary graphics are available to the public on the CRMS website at www.lacoast.gov/crms2.
- (2) The Monitoring Plan shall be developed in conjunction with the engineering and design to ensure that the plan will be completed prior to the TF granting approval for construction in accordance with the Sections 6.i and 6.j. If the project specific monitoring in addition to monitoring of CRMS sites is required, it will be reflected in the monitoring plan and approved by the project sponsors. Funding for the monitoring activities shall be as required in Section 5.c(2), 6.a(4)(a), 6.j(2), and 6.k.
- (3) The effectiveness of the project is periodically evaluated by the project sponsors. If it is determined that additional project specific monitoring is necessary to better evaluate the project, approval by the TC and TF is required.

- (4) Federal sponsors shall maintain oversight over the local sponsor's expenditure of Post-Construction Monitoring funds. The local sponsor shall submit invoices, request for work-in-kind credits, etc. to the federal sponsor for review. Subsequent to the review and approval of the expenditures, and within 90 days of receipt from the local sponsor, the federal sponsor shall forward the appropriate documentations to the COE for payment.
- (5) Monitoring contingency funds are available for both project specific and programmatic activities as outlined in APPENDIX B – Monitoring Contingency Funds Standard Operating Procedure. The P&E has authority to approve or disapprove request submitted by the Louisiana CPRA Monitoring Program Manager.

n. OMRR&R

Project OMRR&R shall be as specified in the project's cost sharing agreement. Funding for OMRR&R activities shall be as required in Section 5.c(2), 1.a(1), and 6.k.

- (1) Federal sponsors shall maintain oversight over the local sponsor's expenditure of OMRR&R funds. The local sponsor shall submit invoices, requests for work-in-kind credits, etc. to the federal sponsor for review. Subsequent to the review and approval of expenditures, and within 90 days of receipt from the local sponsor, the federal sponsor shall forward the appropriate documentations to the COE for payment.
- (2) From time to time there will be projects that have completed construction, but that need modification to ensure their success, cover a design deficiency, or to handle some critical unanticipated requirement. Federal sponsors may make a request through the TC to the TF for funding of such modifications. In its recommendation to the TF, the TC will make a determination whether the funds are needed to meet a critical time requirement or whether the funding could be postponed for consideration during the fall budgeting meeting. Information required for such requests are included in APPENDIX C – O&M Funding Increase Request Beyond the Approved 20-Year Budget.
- (3) For the non-cash flow projects that require additional O&M funding above the approved 20-year estimate, the TF will treat the O&M cost increase in a similar manner as cash flow approvals for O&M. The TF will consider requests for 3-year incremental O&M funding at their October budgeting meeting.
- (4) The federal sponsor may request the last five years of O&M funding at TY15, allowing the federal sponsor to plan and implement activities leading up to TY20. In this case, the project would have five 3-year allocations and a final allocation for the final five year term.

o. 20-YEAR PROJECT LIFE

- (1) As defined by CWPPRA, the term "life of the project" shall mean 20 years from the completion of construction of the project or functional portion of the project. For

multiple phased construction, the project life is considered from the end of construction of the last phase.

- (2) Upon meeting its 15th year of life, a project will be reviewed by the project sponsors and a recommendation made to the TC as to the appropriate path forward at the spring meeting. In general, a project may take one of four defined paths: 1) project close-out (no feature removal), 2) project close-out (partial or complete feature removal), 3) project transfer to another entity, or 4) project extension.
- (3) A matrix may be found in APPENDIX D that details each defined path and includes required activities for the project to be approved by the TF for each path.
- (4) When the 20-year life is met for a completed project the TF will acknowledge the action and project path selected for the permanent record.

p. PROJECT CLOSE-OUT

- (1) The project sponsors shall keep books, records, documents, and other evidence pertaining to costs and expenses incurred by the project to the extend and in such detail as will properly reflect total project costs. The project sponsors shall maintain such books, records, documents, and other evidence for a minimum of three years after completion of construction, OMRR&R, and monitoring of the project and resolution of all relevant claims arising there from, and shall make available at their offices at reasonable times, such books, records, documents, and other evidence for inspection and audit by authorized representatives of the project sponsors.
- (2) Upon completion of all work and certification by the federal sponsor of the final accounting on the project, the COE shall release any excess project funds from the escrow account and/or reimburse the local sponsor for any overpayment of their cost sharing requirements, provided funds are available, in accordance with the provisions of the applicable cost sharing agreement and the escrow agreement.
- (3) If the COE advances funds to a federal sponsor for a project, any excess funds identified at the completion of the project shall be returned to the COE for credit to the CWPPRA accounts.
- (4) Any excess funds in an escrow account shall be returned to the local sponsor, or at its option, transferred to another project in accordance with Section 5.c(4).
- (5) Project sponsors shall prepare a brief report summarizing the project features, costs, and effectiveness. Upon completion of the funded project life, the project sponsors shall inform the TC of their intent to extend or terminate the project under the CWPPRA program.

q. PROJECT DEAUTHORIZATION, INACTIVATION, OR TRANSFERS TO OTHER PROGRAMS

- (1) If the project sponsors agree that it is necessary to deauthorize a project prior to construction, then they shall submit a letter to the TC requesting approval by the TF to deauthorize the project and explaining the reasons for the request.

If the project sponsors do not agree to deauthorize a project prior to construction, then either party or the chair of the P&E may submit a letter to the TC requesting approval by the TF to deauthorize the project and explaining their reasons for the request.

If circumstances warrant transfer of a project to an alternate authority, either as directed by programmatic Congressional authorization or voluntarily requested by a separate authority, then that receiving authority, in coordination with the project sponsors, shall submit a letter to TC requesting the transfer and explaining the reasons for the transfer.

- (2) The TC will forward to the TF a recommendation concerning deauthorization or transfer of the project. Nothing herein shall preclude the federal sponsor, local sponsor, or a receiving authority from bringing a request for deauthorization or transfer to the TF irrespective of the recommendation of the TC.
- (3) Upon submittal of a request for deauthorization or transfer the TC, all parties shall suspend all future obligations and expenditures as soon as practicable until the issue is resolved.
- (4) Upon receiving preliminary approval from the TF to deauthorize or transfer a project, the Chairman of the TC shall send notice to the Louisiana Congressional delegation, the State House and Senate Natural Resources Committee chairs, the State Senator(s) and State Representatives(s) in whose district the project falls, senior parish officials in the parish(es) where the project is located, any landowners whose property would be directly affected by the project, any interested parties, requesting their comments and advising them a final decision on deauthorization or transfer will be made at the next TF meeting.
- (5) If the TF determines that a project should be transferred to another authority, the project sponsors shall provide a chronological summary of all work completed to date; identify any outstanding issues; and provide all project information to the receiving authority, including acquired data, engineering and design analyses, and project documents. The project sponsors shall host an information transfer meeting with appropriate representatives of the receiving authority. The purpose of the meeting is to review project status and details regarding work accomplished to date. Expenditures of CWPPRA funds to re-package project information, conduct additional analyses, or acquire new data or information are not anticipated and shall require explicit approval by the TF.

- (6) When the TF determines that a project should be abandoned or no longer pursued because of economic or other reasons or transferred to another authorization, all expenditures shall cease immediately or as soon as practicable if the project is deauthorized or after information is transferred to another authority according to Section 6.q(5) to another authority. The TC will notify Congress and the State House and Senate Natural Resources Committee chairs of the decision.
- (7) Once a project is deauthorized or transferred by the TF, it shall be categorized as “deauthorized” or “transferred” and closed-out as required by Section 6.p.
- (8) At the discretion of the TF, unconstructed projects that are considered feasible but have not been funded for construction due to programmatic issues (e.g., high costs, cost share agreement issues, etc.) and have completed a 95% Design Review may be considered for inactivation. If this occurs, all project funding will be returned to the program. If conditions (e.g., economic and/or programmatic) change, the project sponsors may request consideration from the TC to return to active status with an updated funding request. Upon approval by the TF, the project will be placed back into active status. If not approved, the project will remain inactive until conditions do change, or the project is transferred to an entity outside of the CWPPRA program. A project placed in an inactive status does not preclude it from being transferred to a willing party if approved by the TF.

r. PROJECT TRANSFERS TO AN ALTERNATE FEDERAL AGENCY

- (1) A member of the TC, TF, or any entity (parish, landowner, others) may request that a project be transferred to an alternate federal sponsor by submitting a request to the TC for consideration.
- (2) The TC will forward to the TF a recommendation concerning transfer of the project and give an explanation for the transfer. Nothing herein shall preclude a formal request for transfer by a member (or representative) to the TF irrespective of the recommendation of the TC.
- (3) Upon submittal of a request for transfer to the TC, all parties shall suspend all future obligations and expenditures as soon as practicable, until the issue is resolved.
- (4) Thereafter, the TC can recommend the TF to consider the action to be voted on by all members of the TF.
- (5) If the TF approves transferring the project to an alternate federal sponsor, the transferring federal sponsor shall notify parish officials in the parish(es) where the project is located, any landowners whose property would be directly affected by the project, and any other interested parties.
- (6) If the TF decides that project will be transferred to another lead agency, the transferring federal sponsor, along with the local sponsor, shall host an information

exchange meeting with appropriate representatives of the receiving federal sponsor within 90 days. The purpose of the meeting is to review project status and details regarding work accomplished to date. Information to be provided will include but not be limited to:

- (a) A chronological summary of all work completed to date
 - (b) Full accounting of all expenditures
 - (c) Agreement on work-in-kind credits to date
 - (d) A full discussion of all outstanding obligations
 - (e) A full discussion of any outstanding issues
 - (f) All current project information, including all acquired data, engineering and design documents, real estate plans, assurance of NEPA compliance, certifications and permits (when applicable). Depending on the situation, a permit transfer or a new permit will likely be required by the new federal sponsor.
- (7) A project transfer will be considered completed when the TF meeting referenced in (6) is held and the receiving federal agency has informed the TF in writing that all conditions pertaining to project transfers have been completed. Responsibility for all expenditures and obligations shall be assumed immediately by the receiving federal sponsor.

s. **STORM RECOVERY PROCEDURES CONTINGENCY FUND**

- (1) The TF created a Storm Recovery Procedures Contingency Fund under the Construction program, in the amount of \$303,358.92 on October 18, 2006 with immediate approval of \$203,358.92 in support of Katrina/Rita expenditures, leaving a remaining balance in the contingency fund of \$100,000.
- (2) The contingency fund would maintain a balance of \$100,000 at all times to cover the cost of assessment of future storm damage. Expenditures of funding in excess of \$100,000 would require a vote by the TF.

t. **STANDARD OPERATING PROCEDURES AMENDMENTS AND TRACKING**

An official, current version of these Standard Operating Procedures shall be maintained by the COE New Orleans District as part of their support of the TC. This document shall be available on the internet as well. Approval will involve, at a minimum, formal acceptance by the TC at a regularly scheduled meeting. If the changes involve policy-level decisions, then any such changes must also be ratified by the TF.

APPENDICES

APPENDIX A

INFORMATION REQUIRED IN PHASE 2 AUTHORIZATION REQUESTS

I. Description of Phase One Project

Describe the candidate project as selected for Phase One authorization, including PPL/fact sheet scale map depicting the project boundary and project features, written description of the conceptual features of the project as authorized for Phase One, a summary of the benefits attributed to the Phase One project (e.g., goals/strategies, WVA results, and acreage projections), and project budget information as estimated at Phase One authorization (e.g., anticipated costs of construction, O&M, monitoring, etc.)

II. Overview of Phase One Tasks, Process and Issues

Brief description of Phase One analyses and tasks [engineering, land rights, environmental compliance (cultural resources, NEAP, and HTRW), etc.], including significant problems encountered or remaining issues.

III. Description of the Phase Two Candidate Project

Include easily reproducible PPL/Fact sheet scale map that clearly depicts the current project boundary and project features, suitable for inclusion in the formal PPL documentation.

Detailed description of project features/elements, updated assessment of benefits reviewed and approved by the Environmental Work Group (EnvWG), current fully funded cost estimate approved by the Engineering Work Group (EngWG) and Economic Work Group (EcoWG), and updated fact sheet suitable for inclusion in the formal PPL documentation. In cases of substantial modifications to original conceptual design or costs describe the specific changes both qualitatively and quantitatively.

IV. Checklist of Phase Two Requirements

(A) List of project goals and strategies.

(B) A statement that the cost sharing agreement between the lead agency and the local sponsor has been executed for Phase 1.

(C) Notification from the State or COE that land rights will be finalized in a short period of time after Phase 2 approval.

(D) A favorable Preliminary Design Review (30% Design Level).

- (E) A favorable Final Design Review (95% Design Level) must be successfully completed prior to seeking Phase 2 approval from the Technical Committee.
- (F) A draft of the Environmental Assessment of the project, as required under the National Environmental Policy Act, must be submitted two weeks before the Technical Committee meeting at which Phase 2 approval is requested.
- (G) Application for and/or issuance of the public notices for permits at least two weeks before the Technical Committee meeting at which Phase 2 approval is requested.
- (H) A hazardous, toxic and radiological waste (HTRW) assessment, if required.
- (I) Section 303(e) approval from the COE.
- (J) Overgrazing determination from the NRCS (if necessary).
- (K) Revised fully funded cost estimate, reviewed and approved by the EngWG prior to fully funding by the EcoWG, based on the revised project design and the specific Phase 2 funding request as outlined in below spreadsheet.
- (L) A Wetland Value Assessment reviewed and approved by the EnvWG.

REQUEST FOR PHASE II APPROVAL

PROJECT: _____

PPL: _____ **Project No.** _____

Agency: _____

Phase I Approval Date: _____

Phase II Approval Date: _____ **Const Start:** _____

	Original Approved Baseline (100% Level) (Col 1 + Col 2)	Current Approved Baseline (Col 3 + Col 4)	Original Baseline Phase I (100% Level) 1/	Original Baseline Phase II (100% Level) 2/	Current Baseline Phase I 3/	Recommended Baseline Phase II (100% Level) 4/	Recommended Baseline Phase II Incr 1 (100% Level) 5/
Engr & Des	-	-					
Lands	-	-					
Fed S&A	-	-					
LDNR S&A	-	-					
COE Proj Mgmt	-	-					
Phase I	-	-					
Ph II Const Phase	-	-					
Ph II Long Term	-	-					
Const Contract	-	-					
Const S&I	-	-					
Contingency	-	-					
Monitoring	-	-					
Phase I	-	-					
Ph II Const Phase	-	-					
Ph II Long Term	-	-					
O&M - State	-	-					
O&M - Fed	-	-					
Total	-	-	-	-	-	-	-
Total Project			-			-	-
Percent Over Original Baseline							

Prepared By: _____ **Date Prepared:** _____

NOTES:

APPENDIX B

MONITORING CONTINGENCY FUND SOP

On July 23, 1998, the CWPPRA Task Force approved \$1.5 million out of the construction funds to be used as a contingency for the CWPPRA Monitoring program. The Task Force provided authority to the Planning and Evaluation Subcommittee (P&E) to approve or disapprove all requests. Request for use of contingency funds are either based on project-specific activities or programmatic activities. Project-specific relates to changes in project designs, timetables, goals or impacts and programmatic relates to changes in monitoring techniques, analyses or approaches [specific examples identified in (4) below]. The procedures to be followed in requesting contingency funds are as follows:

- (1) Upon identification of an activity that would require monitoring contingency funds, the Louisiana Coastal Protection and Restoration Authority (CPRA) Monitoring Program Manager will solicit the lead agency on project specific requests and the P&E on programmatic requests. The solicitation will be a letter outlining and justifying the request with an attached budget. Lead agencies shall respond to such requests within 10 working days of the State's request. Responses not received within 10 days may be deemed by the State as lead agency approval.
- (2) Upon approval from the lead agency on project specific requests, the CPRA Program Manager will send a letter to the P&E stating concurrence of the lead agency and will request approval for use of contingency funds. A copy of the initial solicitation to the lead agency will be attached. Letters to the P&E for project-specific and programmatic requests will include a running total of contingency funds provided to date.
- (3) Upon approval for use of contingency funds by the P&E, COE New Orleans District will prepare MIPR's to the State and/or participating agencies (e.g., U.S. Geological Survey) in the amount requested. MIPR's to the State for project-specific activities will be cost shared in accordance with approved cost-share agreements. MIPR's to the State for programmatic activities will be cost-shared at 85% federal and 15% State.
- (4) Activities that are appropriate for use of contingency funds include, but are not limited to:

Project-Specific

- (a) Changes in project designs such as revised boundaries, structures or goals may require extra meetings, revising monitoring plans, additional preconstruction aerial photography acquisition and analysis, and additional preconstruction monitoring.
- (b) Delays in project construction may require additional preconstruction aerial photography acquisition and analysis and additional preconstruction monitoring.
- (c) Damage to monitoring stations due to human or natural causes such as stolen or vandalized equipment, marsh burning and storm damage may require replacement.

- (d) Project-specific impacts that might surface during routine monitoring such as increasing the duration and frequency of flooding.

Programmatic

- (e) Cost increases in technologic advances such as habitat mapping, land:water analyses, surveying, shoreline change analysis, lidar, and hyper spectral imagery.
- (f) Planning and engineering requests to monitor specific variables or evaluate specific questions such as structure effectiveness.
- (g) Storm event monitoring to evaluate influences and impacts of storms.
- (h) Coastwide data collection and evaluations to address cumulative effects of projects.

APPENDIX C

OPERATIONS AND MAINTENANCE FUNDING INCREASE REQUEST BEYOND THE APPROVED 20-YEAR BUDGET

Federal and local sponsors can jointly request O&M funding increases at the September Technical Committee meeting to be considered by the Task Force at the October budgeting meeting. As per the Task Force's request (June 2007), the federal and local sponsors will provide a fact sheet to help the Task Force make informed decisions based on the cost-effectiveness of the proposed operations and/or maintenance events that will be accomplished with the requested funding. O&M funding increase factsheets shall be provided to the Task Force, Technical Committee, and P&E two weeks prior to the September Technical Committee meeting. O&M funding increase fact sheets shall include the following:

(1) Project History

- (a) A description of the original project
- (b) What work has been completed to date (construction and previous O&M events)
- (c) The original project budget
- (d) Any previous O&M funding increases

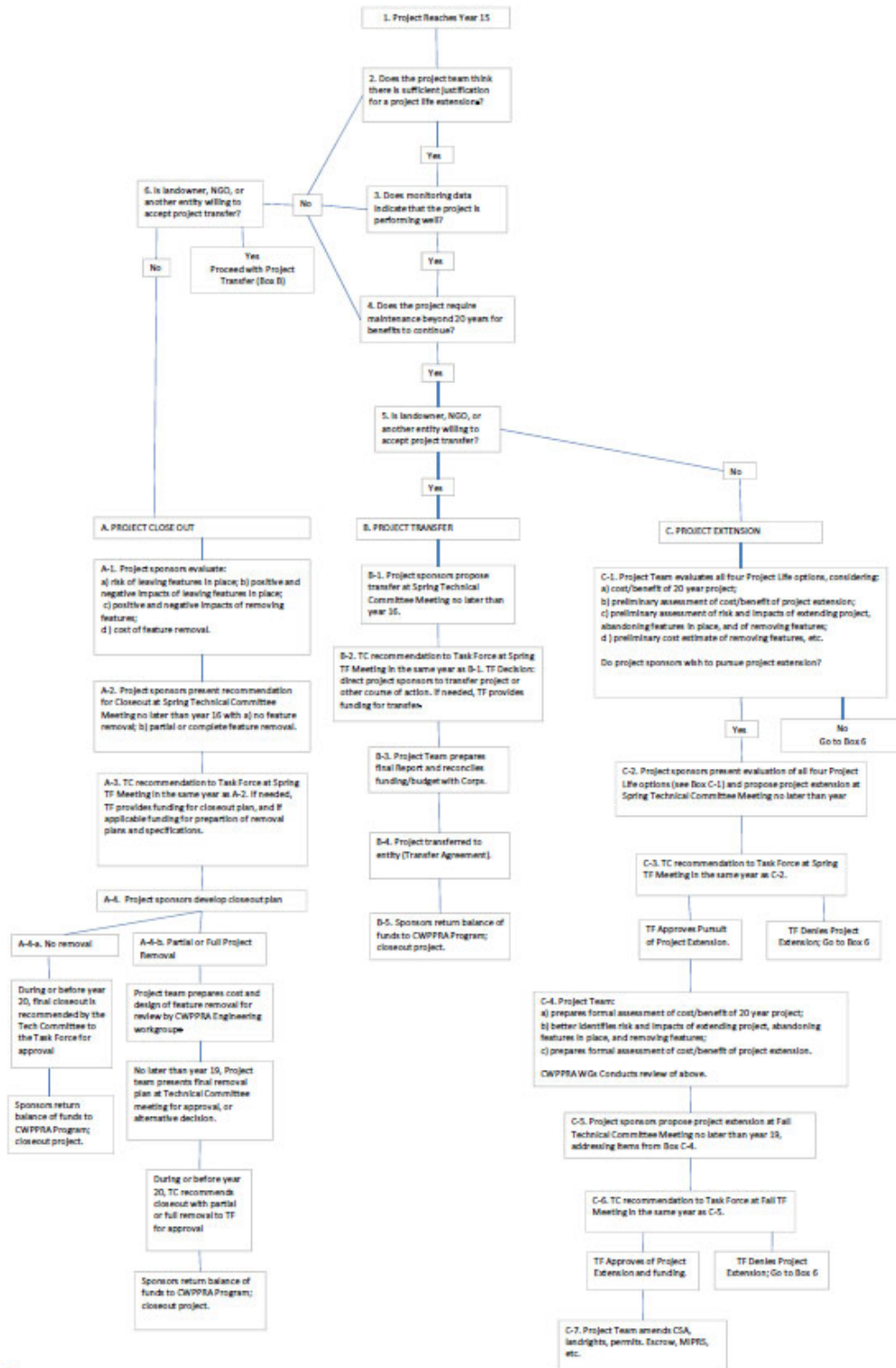
(2) Increase Request

- (a) The O&M increment increase being requested
- (b) The new fully-funded cost estimate
- (c) A description of the proposed operations and/or maintenance event(s) that will be accomplished with the requested funding

(3) Increase Justification

- (a) Summary of project performance over the life of the project (if monitoring data is available)
- (b) How is the project currently deficient in the meeting its goals, and how this deficiency will affect the project area over the remainder of the project life
- (c) How will the proposed O&M help the project meet its goals

APPENDIX D – 20-YEAR LIFE DECISION MATRIX



Notes:
 If the 15 year recommendation changes before year 20, a brief must be given to the TC/TF.
 An annual P&E Subcommittee call is held in Spring to track all projects in or passed year 15.

APPENDIX E

DEMONSTRATION PROJECT GUIDELINES

I. Introduction

Section 303(a) of CWPPRA states that in the development of the Priority Project List (PPL), "...[should include] due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration."

On April 6, 1993, the Task Force stated that: "The Task Force directs the Technical Committee to limit spending on demonstration projects to \$2,000,000 annually. The Task Force will entertain exceptions to this guidance for projects that the Technical Committee determines merit special consideration. The Task Force waives the cap on monitoring cost for demonstration projects."

On April 12, 2006, the Task Force passed a motion stating that they would: "consider funding, upon review, at least one credible demonstration project annually with estimates not to exceed \$2,000,000."

II. What Constitutes a Demonstration Project

(A) Demonstration projects contain technology that has not been fully developed for routine application in coastal Louisiana or in certain regions of the coastal zone.

(B) Demonstration projects contain new technology that can be transferred to other areas of the coastal zone.

(C) Demonstration projects are unique and are not duplicative in nature when compared to technologies that have been developed for routine application in coastal Louisiana.

III. Submission of Candidate Demonstration Projects

(A) Demonstration projects are nominated each year at the four Regional Planning Team (RPT) meetings. At that time, the RPTs will not vote on which demonstration projects will become official demonstration project nominees. One coast-wide RPT voting meeting will be held after the individual RPT meetings to vote for demonstration project nominees. At that meeting, the RPTs will select up to six demonstration project nominees. A lead federal agency will be assigned to each demonstration project nominee to prepare preliminary supporting information (fact sheet, figures, drawing, etc.) Prior to the coastwide RPT voting meeting, demonstration project nominees will be reviewed by the Environmental Work Group (EnvWG) and Engineering Work Group (EngWG) to verify that they meet demonstration project criteria. Subsequent to work group review, the

Technical Committee will select up to three demonstration project candidates for detailed assessment by the work groups.

- (B) The EngWG and EnvWG will evaluate all candidate demonstration projects (see item IV). At the time of the project evaluation, an information packet must be submitted, which includes the following: 1) a possible location for the project; 2) the problem or questions being addressed; 3) the goals of the project; 4) the proposed project features; 5) the monitoring plan to evaluate the project's effectiveness; 6) the costs for construction and monitoring; and 7) a discussion of the Demonstration Project Evaluation Parameters (see below). No Wetland Value Assessments (WVA) will be performed on candidate demonstration projects.
- (C) CWPPRA projects are designed and evaluated on a 20-year project life. However, demonstration projects are unique and each project must be developed accordingly. A specific plan of action must be developed, and operation and maintenance (if applicable) and project monitoring costs included. Monitoring plans are developed to evaluate the demonstration project's technique and the wetland response. Monitoring plans should provide sufficient details of the status of all constructed features of the project such that the performance of all engineered features can be determined. Monitoring should be only long enough to evaluate the demonstration project's performance and may be less than 20 years.

IV. Evaluation of Candidate Demonstration Projects

- (A) The EngWG and EnvWG will conduct a joint meeting during the annual evaluation of candidate projects to evaluate all demonstration projects. The lead federal agency will present the information packet described in III(B) to the CWPPRA work groups. Each candidate demonstration project will be evaluated and compared to other demonstration projects based on the following evaluation parameters.
- (B) Demonstration Project Evaluation Parameters:
 - 1. **Innovativeness** – The demonstration project should contain technology that has not been fully developed for routine application in coastal Louisiana or in certain regions of the coastal zone. The technology demonstrated should be unique and not duplicative in nature to traditional methods or other previously tested techniques for which the results are known. Techniques that are similar to traditional methods or other previously tested techniques should receive lower scores than those that are truly unique and innovative.
 - 2. **Applicability or Transferability** – Demonstration projects should contain technology that can be transferred to other areas of the coastal zone. However, this does not imply that the technology must be applicable to all areas of the coastal zone. Techniques that can only be applied in certain wetland types or

in certain coastal regions are acceptable, but may receive lower scores than techniques with broad applicability.

3. **Potential Cost-Effectiveness** – The potential cost-effectiveness of the demonstration project’s method of achieving project objectives should be compared to the cost-effectiveness of traditional methods. In other words, techniques that provide substantial cost savings over traditional methods should receive higher scores than those with less substantial cost savings. Those techniques that would be more costly than traditional methods to provide the same level of benefits should receive the lowest scores. Information supporting any claims of potential cost savings should be provided.
4. **Potential Environmental Benefits** – Does the demonstration project have the potential to provide environmental benefits equal to traditional methods? Somewhat less than traditional methods? Above and beyond traditional methods? Techniques with the potential to provide benefits above and beyond those provided by traditional techniques should receive the highest scores.
5. **Recognized Need for the Information to be Acquired** – Within the restoration community, is there a recognized need for information on the technique being investigated? Demonstration projects that provide information on techniques for which there is a great need should receive the highest scores.
6. **Potential for Technological Advancement** – Would the demonstration project significantly advance the traditional technology currently being used to achieve project objectives? Those techniques that have a high potential to completely replace an existing technique at a lower cost and without reducing wetland benefits should receive the highest scores.

The work groups will prepare a joint evaluation for submission to the Planning and Evaluation Subcommittee outlining the merits of each project and stating how well each project meets each of the evaluation parameters.

- (C) The EngWG will review costs to ensure consistency and adequacy; address potential cost-effectiveness; compare the cost of the demonstration project to the cost of traditional or other methods of achieving project objectives, when such information is available; and report the pros and cons of the demonstration vs. traditional or other methods.

V. Funding Approval

Demonstration projects shall be considered for funding on an annual basis as (a) part(s) of a PPL (i.e., January meeting). Demonstration projects follow non-cash flow procedures and are capped at 100%. However, agencies may choose to employ cash

flow procedures if they believe it is necessary to maintain consistent accounting procedures of if they believe it would improve dissemination of project information to the Task Force and public.

VI. Engineering and Design

(A) Design Review Conference

The project sponsors shall hold a Design Review Conference with the other agencies upon completion of a Preliminary Design Report (PRD) to allow the other agencies an opportunity to comment on the proposed design of the project. The other agencies shall be notified at least four weeks prior to the conference of the date, time, and place, and invited to attend. The PDF shall be forwarded to the other agencies for their review, with receipt two weeks prior to the conference. Initiations and supporting data shall be sent to agency representatives of the Technical Committee and the Planning and Evaluation Subcommittee.

The Preliminary Design Report shall include: 1) recommended project features, including a description of any project changes from that originally authorized, 2) a discussion of the project location reviewed/approved by the EngWG and EnvWG, 3) preliminary design typical drawings with enough detail to describe the proposed project features, 4) land ownership investigation, 5) information prepared by the local sponsor and provided to the federal sponsor indicating any oyster leases potentially impacted by the proposed project and a data sheet listing: lease number, lease acreage, lessee name, and other pertinent data, 6) preliminary cultural resources assessment, 7) revised project construction cost estimates based on the current design, and 8) a detailed monitoring plan.

This review will verify the viability of the project and whether or not the project sponsors agree to continue with the project. This review must indicate the project is viable before there are expenditures of additional funds.

(B) Final Design Report

A Final Design Report and a set of plans shall be submitted to the Technical Committee and Planning & Evaluation Subcommittee prior to requesting permission from the Technical Committee (with subsequent approval by the Task Force) to proceed to construction. The Final Design Report shall include: 1) project features and location, 2) a revised project cost estimate (fully-funded, approved by the EcoWG), 3) a description of how the project differs in cost and features since funding approval, 4) final monitoring plan, 5) responses to comments brought up at the Design Review Conference, and 6) all supporting data.

VII. Reporting of Results

The sponsoring agency will prepare a report to the Technical Committee as soon as meaningful results of the demonstration project are available. The report will describe the initial construction details, including actual costs and the current condition of all constructed features. The report will summarize the results and assess the success or failure of the project and its applicability to other similar sites. The sponsoring agency will prepare follow-up reports for the Technical Committee if and when more information becomes available.

APPENDIX F

COASTWIDE PROJECT GUIDELINES

1. Coastwide project nominations should include a proven technique that is routinely applied in Louisiana coastal restoration. The project shall include funding for restoration features that directly provide wetland benefits. Demonstration projects will not be considered in the coastwide category.
2. To the greatest extent practicable, coastwide nominations should include a technique that can be applied across the entire coast. Projects that are limited in scope (e.g., applicable in one marsh type within one basin) should not be considered for the coastwide category.
3. Coastwide project nominations should include relatively low-cost restoration techniques that are typically applied on a small scale. When applied in only one location, such projects are often not selected due to their limited scope. However, the opportunity to apply the technique in a coastwide fashion, across multiple project sites, allows greater project consideration. Examples of coastwide project nominations include but are not limited to vegetative plantings, freshwater introduction, hydrologic restoration, canal backfilling, and sand fencing.
4. The coastwide category should not be viewed as an opportunity to divide a traditional large-scale project (e.g., marsh creation) into smaller, multi-basin sites simply to allow consideration in the coastwide category and improve chances of project selection. An example would be dividing a 500-acre marsh creation project into smaller projects across multiple basins to allow consideration as a coastwide project.
5. Coastwide nominations can include installment of project features across multiple years and/or sites. This process allows for project approval within the CWPPRA process and application of adaptive management.