

# **“USACE 2012: The Objective Organization” Draft Report**

A Critical Analysis  
September 2003

On August 25, 2003 the Chief of the U.S. Army Corps of Engineers, General Robert Flowers, released to the public a final draft version of a report entitled “USACE 2012: The Objective Organization.” This final draft report recommends significant changes for both military and civil works related Corps of Engineers processes and activities. In the draft final report General Flowers states that he intends to begin implementing these changes on October 1, 2003. In reviewing this report Public Employees for Environmental Responsibility (PEER) notes that many of the report’s recommendations —

- Contradict previous Congressional testimony offered by General Flowers;
- Ignore numerous repeated recommendations offered by the National Academies of Science;
- Belie Department of the Army Inspector General recommendations made to the Corps;
- Are inconsistent with other recommendations made in the report; and
- Demonstrate blindness to continuing management problems evident in the agency.

PEER has identified, categorized and detailed below General Flowers’ principal recommendations. Many of the changes recommended by General Flowers can be undertaken administratively by the Corps and therefore can immediately be implemented; however some of the more consequential recommendations require Congressional action or legislation for their implementation.

This analysis first presents the Corps of Engineers rationale within the “USACE 2012” report for each recommendation and then offers our critique of that recommendation in a sub-section entitled “PEERing between the lines.”

## **A. Recommendations That Do Not Require Legislation for Implementation**

- **Build and Defend the Civil Works Program around Business Lines**

**Corps Rationale:** The Corps of Engineers has traditionally built and defended its program based on the phase of project implementation (e.g. GI, CG, O&M). Breaking out these phases leads to inefficiency and difficulty in articulating what our vision is in addressing water resources needs of the Country. In FY 05, the Corps of Engineers is developing and defending its budget based on the nine water resources business lines of: navigation, flood control, storm damage reduction, hydropower, water supply, recreation, emergency management, environmental restoration, and regulatory. It is recommended that this initiative be continued. The Corps should organize to support developing and defending its Civil Works Mission along these business lines.

**PEERing between the lines:** On June 18, 2002 General Flowers testified before the Senate and stated, "Right now, existing laws and policies drive us to single focus, geographically limited projects where we have sponsors sharing in the cost of the study. The current approach narrows our ability to look comprehensively and sets up inter-basin disputes. It also leads to projects that solve one problem, but may inadvertently create others. Frequently we are choosing the economic solution over the environmental, when we can actually have both. I believe the future is to look at watersheds first; then design projects consistent with the more comprehensive approach." Developing and defending an annual budget based on nine separate and distinct business lines is remarkably inconsistent with this previously stated vision of integrated, comprehensive, coordinated, multi-purpose watershed projects.

### **- Consolidate Policy and Doctrine Development within the Civil Works Directorate**

**Corps Rationale:** A major mission of the Headquarters is the development and implementation of Civil Works policy. Considerable efficiencies can be gained by recognizing this major responsibility and organizing so that policy and doctrine development occurs in an integrated manner consistent with the strategic planning effort. It is the responsibility of the RBC's (Regional Business Center is the latest Corps acronym for their eight Division offices) to articulate the applicability of the policy as developed to their Districts and assure compliance with those policies.

**PEERing between the lines:** Nowhere in this entire draft report does General Flowers acknowledge the oversight and management roles of either the Assistant Secretary of the Army for Civil Works (ASA(CW)) or the Office of Management and Budget (OMB) in the development of water resource policy and doctrine. In fact, the only mention of either ASA(CW) or OMB occurs in a passage describing a responsibility of the Directorate of Civil Works as "Interfacing with the ASA(CW) and OMB on the Army's annual Civil Works Budget and Water Resources Development Act Proposals." Apparently, General Flowers is committed to institutionalizing within the Corps of Engineers its very own

policy and doctrine office independent of his civilian superiors in the administration and then only “interfacing” with his civilian superiors on annual legislative matters.

## **- Build the Civil Works Implementation Process around the Regional Business Center**

**Corps Rationale:** The major principle of USACE 2012 is that the Regional Business Center will be the operational model for the Corps. By fully implementing this principle considerable savings in time and resources can be realized for the civil works process. Redundancy of reporting requirements between Districts, Divisions, and Headquarters can be minimized and resources can be shared more efficiently between Districts. The Regional Integration Teams working for the MSC’s (Major Subordinate Command is another acronym for the eight Corps Division offices), but located in Washington, is an example of implementing the RBC concept. At its heart, building the civil works implementation process around the RBC establishes accountability for meeting schedules, staying within project cost and quality, and partner satisfaction as the primary responsibility of the RBC.

**PEERing between the lines:** The Corps of Engineers is not a business. It is an agency of the Federal Government. It expends revenues derived generally from taxpayers at large and formulates, recommends, and constructs water resource projects with generally local, regional, or otherwise narrowly defined economic beneficiaries. Focusing on the RBC as the fundamental “business” center of the Corps gives short shrift to both the national interests (economic and otherwise) of taxpayers and citizens at large and the local interests of specific project beneficiaries.

More importantly, in their November 2000 report (page 7) affirming the manipulation of data by three Corps of Engineers Commanding Officers in the Upper Mississippi River – Illinois Waterway Navigation system Feasibility Study, the Department of the Army, Office of the Inspector General (Army IG) makes the following statement addressing the Corps of Engineers employing a “customer service model” as its business model: “The Corps employment of the customer service model created a conflict with the Corps role as honest broker.”

The Army IG report goes on to further state (page 6),

“Advocacy, growth, the customer service model, and the Corps reliance on external funding combined to create an atmosphere where objectivity in its analyses was placed in jeopardy.”

It appears that General Flowers recommended solution to the conflict of interest between project advocacy and customer service on the one hand, and the honest broker role of the Corps on the other hand is to institutionalize the customer service and advocacy roles in the Regional Business Centers and ignore any potential lack of objectivity or conflict of interest that this formal institutionalization will create.

## **- Eliminate separate District Commander’s Reports – Replace with Division Commander’s Report**

**Corps Rationale:** This process improvement is one step in implementing the RBC as the business unit of the Corps. The current District Commander's report would be eliminated and combined with the Division Commander's notice requirement. This step would eliminate one reporting requirement, but more importantly, clearly establish the RBC as the action arm for the Corps working through its Districts.

**PEERing between the lines:** On February 27, 2003, General Flowers testified before the House defending his Fiscal Year 2004 budget and stated, "We're committed to change that leads to open and transparent modernization of the Civil Works Program for the 21st Century." It is not at all clear how eliminating an existing District Commander's reporting requirement to clearly establish the RBC as the "action arm" lead to a more open and transparent process when the new process is controlled by an "action arm" located distant from not only Washington DC but the ultimate potential project beneficiaries.

### **- Provide all Civil Works Funding directly to the Regional Business Centers rather than to Districts**

**Corps Rationale:** This is another component of implementing the RBC as the business unit for the Corps. Regional databases in CEFMS need to be established before this action could occur. Once that is accomplished, Funding Authorization Documents (FAD's), and other funding documents would be transmitted directly to the RBC rather than to Districts on a line item basis. The RBC would then make work assignments and funding distribution so as to maximize efficiency and responsiveness throughout the Region.

**PEERing between the lines:** On February 27, 2003, General Flowers testified before the House defending his Fiscal Year 2004 budget and stated, "We're committed to change that leads to open and transparent modernization of the Civil Works Program for the 21st Century." Having the Regional Business Centers receive all civil works funding directly and then make work assignments and distributions of funds decisions does not open up the Civil Works program. Quite to the contrary, this recommendation makes the Corps less open and transparent as the important decisions affecting the funding and day to day working of projects are made away from both the center of the funding, Washington DC, and away from the location of the project and its potential beneficiaries.

### **- Washington Level Process Focus and Organization Should Support the Mission Area of Project Advocacy**

**Corps Rationale:** The Regional Integration Teams will provide this primary function. The Civil Works Directorate would provide the necessary support and assistance to work any and all project implementation issues in the most efficient manner possible.

**PEERING between the lines:** In their November 2000 report (page 7) affirming the manipulation of data by three Corps of Engineers Commanding Officers in the Upper Mississippi River – Illinois Waterway Navigation system Feasibility Study, the Army IG makes the following statement addressing Corps of Engineers advocacy for projects: “The investigation did not find an explanation of the advocacy role in any policy or regulation relating to the Corps’ civil works mission.”

In other words, the Army IG found that the Corps had no authority to act as an advocate for their projects. General Flowers continues to ignore this finding that the Corps is not authorized to act as an advocate for projects. In fact, the Corps is required by regulation and law to act as an “honest broker” in evaluating its potential projects, not as an advocate for project implementation.

### **- Washington Level Process Focus and Organization Should Support the Mission Area of Executing Internal and External Independent Review**

**Corps Rationale:** An Office of Water Project Review needs to be established within the Civil Works Directorate to oversee policy reviews of Civil Works decision documents and to administer the independent review of selected civil works planning products.

**PEERING between the lines:** There is no question that the Corps should manage its own *internal* review processes in the manner that it feels best facilitates the production of efficient and quality projects. However the National Academies of Sciences in their July 2002 report to the Corps entitled “An Assessment of U.S. Army Corps of Engineers Methods of Analysis and Peer Review for Water Resources Project Planning” found that the agency's studies of costly and controversial projects “should be subjected to independent review by objective, expert panels.”

The report goes on to indicate that for independent peer review to have true value in restoring the lost credibility of Corps of Engineers analyses it should be managed, administered, and staffed by panels *external* to the Corps of Engineers. To prevent conflicts of interest, the report states that independent reviewers “should not be selected by the Corps and should not be employed by the Corps,” and the process, “should be overseen by an organization independent of the Corps.”

On March 26, 2003 General Flowers testified before the House and stated, “We’ll be implementing every appropriate recommendation from the NAS study on planning methodologies that Congress requested in WRDA 2000.” Apparently, General Flowers regards the NAS recommendation on implementing independent review as inappropriate and prefers to make his vision of independent review of projects completely dependent on his oversight, management, and administration. This insistence on controlling the independent review of large and controversial projects diminishes its value in restoring the lost credibility of the Corps and is a clear and direct management oversight.

## **- Eliminate the requirement for Preconstruction Engineering Design (PED) Agreements**

**Corps Rationale:** PED agreements are a process step that was administratively implemented several years ago, and would, therefore, not require Congressional action to eliminate. Eliminating the requirement for PED agreements will eliminate approximately one year from the Civil Works implementation process. The partnering process associated with the planning and design phases of a civil works project needs to be sustained even if PED agreements are eliminated.

**PEERing between the lines:** Preconstruction Engineering Design agreements obligate the Federal Government through the Corps of Engineers and the local project sponsor to undertake certain actions and incur certain costs prior to the construction of a civil works project. These legal agreements add a measure of accountability to the implementation process of a civil works project by formalizing the pre-construction roles and expectations of the Corps and the local project sponsor.

Removing an important and publicly observable step in the Civil Work process that adds both accountability and visibility to the process is inconsistent with General Flowers previous congressional testimony committing to change that is open and transparent.

## **B. Recommendations That Require Legislation or Congressional Cooperation for Implementation**

### **- Integrate the Authorization and Appropriation Process within USACE**

**Corps Rationale:** Considerable efficiencies and process improvements can result by integrating the authorization and appropriations processes. This is one major step in implementing a Civil Works Strategic Plan. As we look to the future, we need to help identify the water resources challenges that the Nation will be facing and help define authorities and resources necessary to respond to those needs. By synchronizing the bi-annual authorization process and annual appropriations process, we can better respond to the identified water resources needs as they develop.

**PEERing between the lines:** General Flowers appears to feel that requiring separate congressional authorizations and appropriations for Civil Works projects implementations is inefficient for the process of delivering Corps projects. To the contrary, the authorizing or appropriating committees in Congress most assuredly do not see their respective oversight roles as inefficient or redundant.

### **- Programmatically Fund the “Reconnaissance Phase” of the Planning Process**

Corps Rationale: There are currently considerable delays in the implementation of a Civil Works Project from the time a local community requests the Corps address their identified problem and when we are able to initiate study of that problem through a reconnaissance study. Recommend that the Corps, rather than having reconnaissance studies funded as separate line items, be provided funding programmatically on an annual basis. This would allow reconnaissance studies to be initiated immediately upon receipt of a request, subject to authorization and funding availability. This recommendation would establish reconnaissance studies similarly to the Continuing Authorities Program. Congressional action would be required to provide authorization and annual programmatic funding for reconnaissance studies.

**PEERING between the lines:** PEER notes that implementing this recommendation would leave the Corps of Engineers as the sole arbiter of which reconnaissance studies would be executed, when they would be executed and with priority, and how much of the preprogrammed funds would be devoted to their individual executions. This is an extraordinary grant of administrative power that is currently exercised by jurisdictional committees and the Congress of the United States.

**- Provide 100% Federal Funding for the Feasibility Phase of Project Implementation**

**Corps Rationale:** Another major cause of delays in our planning program is the time required to negotiate and execute Feasibility Cost Sharing Agreements (FCSA's). One year is required, on the average, to implement a FCSA. WRDA 86 requires that feasibility studies be cost shared 50/50. In order to remove the need for FCSA's, WRDA 86 would have to be modified to remove the feasibility study cost sharing requirement. Currently, we are receiving around \$100,000,000 per year to support feasibility studies. To maintain our current pace in execution of feasibility studies, the additional cost to the Federal Treasury to implement this recommendation would be about \$100,000,000 per year however this would allow for broader watershed based solutions, rather than the current project specific solutions driven by the non-federal sponsor requirement. Congressional authorization would be necessary to implement this recommendation.

**PEERING between the lines:** On February 27, 2003, General Flowers testified before the House defending his Fiscal Year 2004 budget and stated: "The President's FY04 Budget for the Civil Works Program is a good one. However, we must continue to find ways to reduce our costs and shift more of those remaining to direct beneficiaries of our services." On March 26, 2003 General Flowers testified before the Senate and stated, "The American public has a strong and growing interest in downsizing the Federal Government... An implication of this is that the nonfederal sector, including state and private interests, will have to share greater responsibility in water and related land resources management."

This recommendation requires the Federal Treasury to incur an additional annual burden

of \$100 million and is inconsistent with the Bush Administration policy of shifting more of the costs of projects to the direct beneficiaries.

### **- Develop Procedures and Incentives to Introduce Design/Build Processes into the Civil Works Program**

**Corps Rationale:** Military Programs has been developing for some time, tools and techniques to create incentives for design/build efforts. Currently over 50% of the Military Programs Projects are accomplished through design/build contracts. The Civil Works Program is different than Military Programs, however there are opportunities to work with private industry to implement Civil Works Projects using design/build techniques. The Civil Works function needs to expend effort to determine how USACE can use the efforts that have occurred in Military Programs to speed up the design and construction components of the civil works process.

**PEERing between the lines:** Design/build contracts are, as their name suggests, difficult contracts in which to control project costs as the project is literally designed as it is built and consequently, subject to potential large cost overruns without the benefit of a re-evaluation of the efficiency of the potential project in the face of greatly increased costs. In military construction these contracts can be appropriate when the desire is to complete a known mission as expeditiously as possible where total project costs play only a small role in the desirability of completing the project. In Civil Works projects, every dollar of costs reduce the net benefits of the project and cost control is an important parameter of project desirability.

### **- Reconstitute Project Cooperation Agreements (PCA's) as Partnering Agreements executed at the District Level**

**Corps Rationale:** The House draft FY 03 Water Resources Development Act, contains language that would eliminate the need for PCA's (Project Cooperative Agreements) as contained in WRDA 86 and replace that requirement with partnering agreements signed at the District level. This legislation would establish the need for certain principles based on law or policy that a partnering agreement would need to contain. By implementing this draft provision, months, if not years could be eliminated from the civil works process as well as positively addressing the number one complaint that our civil works partners and customers communicate to us regarding the civil works process.

**PEERing between the lines:** This recommendation is completely inconsistent with other recommendations made in the report by General Flowers such as the recommendation to "Build the Civil Works Implementation Process around the Regional Business Center" and the recommendation to "Provide all Civil Works Funding directly to the RBC rather than to Districts."

If one were building the civil works implementation process around the Regional Business Center as recommended previously by General Flowers, the legal contract



formalized by a PCA obligates the federal government (not just the Corps of Engineers) and the local project sponsor to perform certain duties and incur certain costs to cooperatively complete a project one of the most critical steps in the implementation of a civil works project.

- With all civil works funding going directly to the Regional Business Center as recommended by General Flowers how can a District Commander now be charged with signing a PCA promising performance by the Corps of Engineers?

- How will a District Engineer be able to assure the local sponsor that funds will be available to complete the Corps of Engineers participation in that project in a timely manner?

This recommendation is just one of the many inconsistent and poorly conceived changes recommended by General Flowers. It is as if the Corps seeks to change only for the sake of change itself with no apparent management insights into its own “business” processes.