

**ATTACHMENT 9.3.3 (12509-SPD ESI SOP)
Checklist/Guide to Roles and Responsibilities
in the Preparation and Coordination of EISs**

APPLICANT’S ROLES & RESPONSIBILITIES:

- Submit complete DA application to the Corps

Submit to the Corps a complete application for a Standard Individual Permit for the proposed project. The signed application should include a complete project description, an accounting of the potential impacts to waters of the U.S., including wetlands, and a full mailing list as determined by the Corps (refer to 33 C.F.R. 325.1(d) and 325.3(a) for the content of an application and when to deem it complete).

- Compile ranked list of qualified third-party contractors

Submit to the Corps a ranked list of knowledgeable and experienced third-party contractors (i.e., a list of the prime contractors and any associated subcontractors for each ranked third-party contractor) with their statement of qualification. Eligible third-party contractors will have demonstrated experience in preparing EISs and in integrating NEPA and Section 404 of the Clean Water Act/Section 10 of the Rivers and Harbors Act/Section 103 of the Marine Protection, Research and Sanctuaries Act requirements, and other federal laws and regulations (e.g., Endangered Species Act (ESA), National Historic Preservation Act (NHPA), Magnuson-Stevens Fishery Conservation and Management Act) and Executive Orders (EOs), which might require the use of subcontractors for accomplishing particular tasks, including but not limited to, biological surveys, functional/condition assessments, and wetland delineations.

- Provide draft scope of work to the Corps for review and approval

Allow the Corps to review and approve the selected third-party contractor’s scope of work before final contract execution between the applicant and the third-party contractor. The Corps’ review of the draft scope of work should focus on the tasks and activities prescribed in the contract related to applicable Federal laws and regulations, including deliverables and overall schedules, to ensure the SOW adequately addresses all work necessary to fulfill the Corps’ NEPA obligations as well as compliance responsibilities with all applicable federal laws, regulations and EOs.

- Hire the Corps-selected third-party contractor

The applicant will hire the Corps-selected third-party contractor, consistent with NEPA requirements and Corps guidance on hiring third-party contractors, and pay for the EIS preparation and all related services to be provided by the third-party contractor.

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- Sign Statement of Responsibilities (refer to Attachment 9.3.2)

- Submit draft purpose and need statement

Submit to the Corps a draft purpose and need statement in Microsoft Word format. If requested by the Corps, provide additional information and/or incorporate the Corps' changes, including all associated revisions necessary to address the Corps' comments.

- Submit draft range of alternatives and proposed screening criteria

Submit to the Corps in Microsoft Word format proposed alternatives and alternatives screening criteria that have been identified and developed based on pre-scoping and scoping information. If requested by the Corps, incorporate additional alternatives and/or changes and make other changes necessary to address Corps comments.

- Provide additional information as requested

Provide additional information requested by the Corps to prepare the EIS (from the Notice of Intent through the Record of Decision), make a public interest determination and comply with applicable federal laws, regulations and EOs.

- Participate in the NEPA scoping process

Participate in the scoping meeting by presenting a brief description of the proposed action, if requested to do so by the Corps.

- Review portions of the administrative Draft and Final EISs

Review select portions of the administrative Draft EIS and administrative final EIS as identified by the Corps to ensure accuracy of the applicant's project purpose, proposed project and proposed mitigation (if applicable). Identify whether there is missing or erroneous information.

- Participate in the public hearings/meetings (if held)

Participate in the Draft EIS public hearing/meeting by providing an overview of the applicant's Preferred Alternative (proposed project), other alternatives considered in the Draft EIS, and proposed mitigation, if applicable.

- Provide draft responses to comments received on the public Draft and Final EISs

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Substantive comments received on the Draft and Final EISs may require the applicant's input, as determined appropriate by the Corps. The applicant may elect to resolve directly certain issues raised by commentors, although this is not required.

- Obtain state permits necessary for Corps permit decision-making

As applicable, apply for and obtain a Clean Water Act Section 401 Water Quality Certification (or waiver) for the proposed project (or an alternative) that would discharge dredged or fill material into waters of the United States. For coastal districts in California, when applicable, obtain a coastal development permit or provide other evidence of a federal consistency determination or waiver from the California Coastal Commission for the proposed project (or an alternative) for activities that would affect the coastal zone.

THIRD-PARTY CONTRACTOR'S ROLES & RESPONSIBILITIES:

- Sign Statement of Responsibilities (SOR) and CEQ conflict of interest form(s)

Complete and execute the SOR and Corps' Conflict of Interest Declarations/Confidentiality of Information form(s) and provide originally signed copies to the Corps.

- Invoice the applicant for payments in accordance with the SOW

Submit invoices to the applicant to receive payment for EIS-preparation services completed pursuant to the contract executed between the third-party contractor and the applicant.

- Obtain necessary project information from the applicant

Request information needed from the applicant (e.g., project description) to prepare the EIS (from Notice of Intent through the Record of Decision). Requests for information should be coordinated with the Corps and in general, there should be minimal direct contact between the applicant and the third-party contractor (i.e., the third-party contractor works under the direction of the Corps and information should usually pass through the Corps).

- Prepare and submit to the Corps a draft Notice of Intent

Submit to the Corps a draft Notice of Intent to prepare an Environmental Impact Statement in Microsoft Word format (see Attachment 9.4.1); if requested by the Corps, incorporate changes to the Notice of Intent and make any other changes necessary to address the Corps' comments.

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- Assist the Corps in organizing and executing the NEPA scoping meeting(s)

Under the direction of the Corps, organize all NEPA scoping meeting logistics, such as reserving a meeting location, bringing or arranging to have presentation equipment, prepare meeting materials, handouts, posters, retain a court reporter/stenographer (as appropriate); prepare a scoping report following the meeting(s) and submit it in draft form to the Corps for review, followed by incorporation of any changes requested by the Corps.

- Conduct all necessary literature searches and reviews, fieldwork in support of the EIS technical studies, conduct analyses, including evaluation of impacts, prepare reports

As applicable, conduct literature searches and reviews, incorporate or reference applicable existing information (as appropriate), perform environmental resource inventories and field surveys necessary to prepare the Affected Environment and Environmental Consequences chapters of the EIS; perform jurisdictional delineation; submit all survey results directly to the Corps and conduct additional surveys if determined necessary by the Corps. Perform required analyses and modeling if deemed necessary (e.g., engineering, traffic, air, etc.) and prepare draft and final technical reports for Corps review and approval.

- If needed, prepare a draft Biological Assessment (BA) that evaluates the effects of the applicant's preferred alternative on federally listed threatened and endangered species known to occur within the project area and critical habitat, if designated; submit the draft BA to the Corps for review

As applicable, prepare and submit a draft BA to the Corps; incorporate changes requested by the Corps and revise draft Biological Assessment to address Corps comments.

- Prepare a draft EFH assessment (if applicable) and submit to the Corps for review

As applicable, prepare and submit a draft Essential Fish Habitat (EFH) assessment to the Corps (or include the equivalent in the Biological Resources chapter of the Draft and Final EIS); incorporate changes requested by the Corps and revise draft EFH assessment to address the Corps' comments.

- Conduct cultural resources survey and prepare cultural resources survey report

As applicable, prepare and submit a draft cultural resources survey directly to the Corps; incorporate changes requested by the Corps and revise draft cultural resources survey to address the Corps' comments.

- Prepare the administrative Draft EIS, including technical studies and all appendices

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In full consideration of the scoping comments, prepare and submit administrative Draft EIS chapters and appendices directly to the Corps (as applicable, include the finalized Biological Assessment, EFH assessment, and Cultural Resource Survey as appendices; incorporate changes requested by the Corps and revise Draft EIS chapters and appendices to address the Corps' comments.

- Prepare and submit an administrative Draft EIS for Cooperating Agency(s) and Corps District review

Following cooperating agency(s) and district review of the ADEIS, make revisions and prepare a revised ADEIS for SPD review per CESPDCM-O (1145) Memorandum dated November 5, 2002.

- Prepare and submit a revised administrative Draft EIS for SPD review
- Prepare and submit a pre-final (“camera-ready”) Draft EIS for Corps review and approval

Prepare and submit a full pre-final (“camera-ready”) Draft EIS that incorporates any review comments provided by SPD and submit the pre-final Draft EIS directly to the Corps for district approval. Following Corps approval, reproduce copies of the Draft EIS in format (e.g., CD) agreed to in SOW and/or make arrangements for establishing an FTP site for the public viewing/downloading of the Draft EIS.

- Prepare and submit to the Corps the draft District-level Public Notice regarding the availability of the Draft EIS and request for public comments

If requested by the Corps, prepare and submit a draft Public Notice regarding the availability of the DEIS and request for public comment on the applicant's preferred alternative (if known) for purposes of the Corps permit evaluation of the probable impacts on the public interest. The draft PN should be submitted to the Corps in Microsoft Word format; if requested, incorporate changes to the district-level PN and make any other changes necessary to address the Corps' comments.

- Distribute or assist the Corps in the distribution of the public Draft EIS for a minimum 45-day public review period

Distribute the public Draft EIS to all individuals, agencies, and organizations on the Corps-approved mailing list; coordinate with the Corps regarding the exact number of hard copies and electronic copies (e.g., CDs) to be provided to specific federal agencies, such as the U.S. Environmental Protection Agency and U.S. Department of the Interior, and others. If requested by the Corps, establish and post the Draft EIS to an FTP site and provide a link for the Corps to post on its district website for public viewing/downloading of the document.

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- Organize and execute the Draft EIS public hearing/meeting(s) (if applicable)

Organize all Draft EIS public hearing/meeting logistics, such as reserving a hearing/meeting location, bringing or arranging to have present and operational presentation equipment; retain a court reporter/stenographer and prepare an electronic transcript of the public hearing (if applicable); provide a draft of the transcript to the Corps for review.

- Compile all public comments received on the Draft EIS and prepare draft responses for Corps review

Compile all comments received and work in consultation with the applicant, when appropriate, to prepare draft responses to public comments on the Draft EIS, including the public hearing/meeting transcript (if applicable), and submit these documents directly to the Corps (Note: the third-party contractor should expect the applicant to provide draft responses to some or many of the comments); incorporate changes requested by the Corps and revise draft responses to address Corps comments.

- Prepare and submit an administrative Final EIS; submit for Cooperating Agency(s), Corps District review

Prepare and submit administrative Final EIS chapters and appendices directly to the Corps, including, as applicable, the integrated NEPA/section 404(b)(1) alternatives analysis and the draft general conformity analysis (if applicable) (40 CFR Part 93, Subpart B) for the preliminarily determined least environmentally damaging practicable alternative; incorporate changes requested by the Corps and cooperating agency(s) and revise Final EIS chapters and appendices to address the Corps' comments.

- Prepare and submit a revised administrative Final EIS for SPD review

Following cooperating agency(s) and district review of the AFEIS, make revisions and prepare a revised AFEIS for SPD review per CESPD-CM-O (1145) Memorandum dated November 5, 2002.

- Prepare and submit a pre-final (“camera-ready”) Final EIS for Corps review and approval

Prepare and submit a full pre-final (“camera-ready”) Final EIS that incorporates any review comments provided by SPD and submit the pre-final Final EIS directly to the Corps for district approval. Following Corps approval, reproduce copies of the Final EIS in format (e.g., CD) agreed to in SOW and/or make arrangements for establishing an FTP site for the public viewing/downloading of the Final EIS.

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- Prepare and submit to the Corps the draft Public Notice regarding the Availability of the Final EIS

If requested by the Corps, prepare a draft Public Notice regarding the availability of the Final Environmental Impact Statement and submit the document in Microsoft Word format to the Corps; if requested, incorporate changes to the draft PN and make any other changes necessary to address the Corps' comments.

- Disseminate the public Final EIS

Distribute Final EIS to all individuals, agencies, and organizations on the mailing list; coordinate with the Corps regarding the number of hard copies and electronic copies (e.g., CDs) to provide to specific federal agencies, such as U.S. Environmental Protection Agency regional offices and U.S. Department of the Interior, and others.

- Compile and organize comments received on Final EIS and prepare draft responses to comments for Corps review

Compile all comments received and prepare draft responses to all comments received on the Final EIS and draft general conformity analysis, and submit them directly to the Corps; incorporate changes requested by the Corps and revise draft responses to address Corps comments and to assist the Corps in preparing its Record of Decision.

- Prepare and finalize Clean Air Act general conformity analysis for submittal to the Corps

As applicable, finalize the general conformity analysis (40 C.F.R. Part 93, Subpart B) and submit directly to the Corps; first submit administrative final document to the Corps for review and make changes as requested and as necessary to address Corps comments [Note that hard copies of final general conformity determination documents must be submitted to the regional office of the U.S. Environmental Protection Agency and the appropriate state, regional and local air quality management agency(s), affected federal land managers, as well as anyone who requests a copy, within 30 days of executing the record of decision)].

COPRS' ROLES & RESPONSIBILITIES:

- Review DA permit application for completeness or request additional information per 33 C.F.R. 325.1(d)

Review the submitted application for a Standard Individual Permit; notify the applicant in writing of additional information required to complete the application.

- Determine Corps' NEPA scope of analysis (SOA) and document the need for an EIS

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Establish the SOA based on information provided in the DA permit application and other supplemental information furnished by the applicant; document the “significant” impacts to the quality of the human environment that require the preparation of an EIS.

Review ranked list of qualified third-party contractors and select the first acceptable to the Corps

Provide the third-party contractor with the Corps’ conflict of interest declaration form(s) and the Statement of Responsibilities document

Send MS Word version of the Conflict of Interest Declarations/Confidentiality of Information form(s) to the third-party contractor for completion and execution; ensure the executed form(s) is/are included in the administrative record.

Coordinate Statement of Responsibilities (SOR) with the applicant and third-party contractor; sign SOR

Review and approve the draft scope of work for preparing the EIS

Determine the basic and overall project purposes

Review the applicant’s draft purpose and need statement and based upon the applicant’s stated needs and goals determine the basic and overall project purposes.

Review and approve the draft range of alternatives and screening criteria

Review the applicant’s alternatives screening criteria (if any were proposed) and alternatives developed and/or evaluated; as necessary, request incorporation of additional alternatives and/or provide changes and comments to identify alternatives to be analyzed in the EIS.

Request necessary project information from the applicant

Request information from the applicant that the third-party contractor needs to prepare the EIS (from Notice of Intent through the Record of Decision). The third-party contractor works under the direction of the Corps and information from the applicant should usually pass through the Corps to the third-party contractor unless otherwise agreed to between the Corps and applicant.

Prepare and send letters inviting cooperating agency(s) to participate in the EIS process

Convene periodic coordination meetings with the third-party contractor and cooperating agency(s) as needed; hold periodic status updates or progress meetings with the applicant.

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Hold coordination meetings with both the third-party contractor and the cooperating agency(s) to review the status and progress of draft submittals, identify additional data needs, discuss schedule changes/deviations, and address concerns or issues that may have arisen. The Corps may also want to hold separate meetings with the applicant to keep him/her informed and apprised of the current status of the NEPA milestones/schedule.

- Finalize the NOI and submit to Corps Headquarters, Regulatory Community of Practice or Army Federal Register Liaison for publication in the *Federal Register*

Finalize the Notice of Intent and submit it to Corps Headquarters, Regulatory Community of Practice or the Army Federal Register Liaison for publication in the Federal Register; prepare and distribute (to those on the mailing list) the Corps district-level public notice announcing the Notice of Intent, scoping meeting(s), and receipt of application for a Corps permit; post the NOI PN to the district website

- Prepare and issue district-level PN announcing the Corps' NOI and request for scoping comments
- Coordinate with Federal and state resource agencies and Indian tribes, as applicable, to comply with applicable federal laws, regulations and Executive Orders

Coordinate with resource and regulatory agencies, as needed, to initiate and complete applicable consultations (e.g., Section 7 of the ESA, Section 106 of the NHPA, Magnuson-Stevens Act) and CAA general conformity-associated coordination. If applicable, coordinate with affected Indian tribes at key points during the NEPA and Section 106 processes.

- Participate in NEPA scoping meeting(s)

Participate in the scoping meeting(s), and if appropriate, make a brief presentation on the Corps' Regulatory Program authorities and role in leading the EIS process; preside over the public input portion of the meeting; review and provide changes and comments on the draft scoping report to the third-party contractor.

- Review project information, draft technical studies and documents prepared by the third-party contractor

Review third-party contractor information (e.g., biological surveys, cultural resources survey, EFH assessment, and other technical studies) and provide to the contractor changes and comments as necessary. Corps is responsible for ensuring technical studies are consistent with applicable federal regulations and policies, are complete and accurate, and legally sufficient.

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- Review the administrative and pre-final versions of the Draft EIS

Review all administrative and pre-final (“camera-ready”) Draft EIS chapters and appendices and provide comments and recommended changes to the third-party contractor.

- Electronically file the Draft EIS with EPA Headquarters
- Prepare and issue district-level PN announcing the NOA of the DEIS and the Corps’ request for public review and comments
- Participate in the public hearing/meeting(s) on the Draft EIS

Participate in the public hearing/meeting(s) to consider the Draft EIS and the application for a Standard Individual Permit, and if appropriate, provide a brief presentation on the Corps’ Regulatory Program authorities and roles in leading the NEPA process; preside over the public input portion of the hearing/meeting(s); review and provide comments on the draft public hearing transcript (if applicable) to the third-party contractor.

- Provide copies of the administrative Final EIS to cooperating agency(s), other Corps business lines as appropriate, and SPD for internal review
- Review the administrative and pre-final versions of the Final EIS

Review all administrative and pre-final (“camera-ready”) Final EIS chapters and appendices to ensure comments provided by the cooperating agency(s), other Corps business lines and SPD were adequately addressed and incorporated by the third-party contractor; and provide any comments on the pre-final FEIS prior to finalization and reproduction.

- Electronically file the Final EIS with EPA Headquarters
- If needed based on the project’s effects being of national concern prepare and submit an NOA of the Final EIS to Corps Headquarters, Regulatory Community of Practice or Army Federal Register Liaison for publication in the *Federal Register*
- Prepare and issue district-level PN announcing the NOA of the FEIS
- Prepare and coordinate for signature the Record of Decision
- Prepare and distribute general conformity determination, if required

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If a general conformity determination is required, within 30 days of executing the ROD, prepare and submit to Corps Headquarters for publication in the Federal Register a Notice of Availability of a final general conformity determination; also prepare and distribute a Corps public notice of the same (to those on the Corps-approved mailing list) and provide copies of the final general conformity determination document to the U.S. Environmental Protection Agency (Region IX), California Air Resources Board, local agencies, Air Quality Management District, and any affected federal land managers, as well as anyone who requests a copy.

- Based on ROD, prepare proffered standard individual permit or denial letter

If the Record of Decision approves a federal action, prepare a proffered Standard Individual Permit package for the approved federal action; sign the transmittal letter and send the proffered Standard Individual Permit package to applicant for signature and approval of terms and conditions. If the Record of Decision is to deny authorization, prepare denial letter and associated documents including notice of opportunity to appeal the decision.

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