

Questions & Answers from Virtual PL 84-99 Rehabilitation Program Workshop August 5, 2020

- 1) In 2019 the sites were limited to those in a Presidential declaration which is not typically done for PL 84-99. Can you explain why there was a change in 2019? Will this be new standard?

This was not a change in procedure. Under the regulation the RP is activated when there is “an event of an other than ordinary nature.” There is no exact data point where the RP is triggered, each event must go through an evaluation process. This includes looking at the level of effort the counties and the State have put forth into flood fighting, reviewing river levels in the area, comparing damage and river levels to previous storms where the RP was initiated. In addition, the Sacramento District will confer with Division and USACE HQ to make sure there is agreement and that the program is being applied consistently across the nation. In 2019, at the suggestion of HQ, the RP was activated for those counties under the Presidential declaration as the flooding was not widespread across the District’s area of responsibility.

- 2) When you say that the vegetation be removed prior to the DWR or USACE visit, do you mean clean of the damaged area or do you mean prior to the event?

It is important that the damage to the site can be viewed during a visible inspection.

- 3) I think the PL84-99 Program Manager mentioned the State needs to request the Corps open the PL 84-99 rehabilitation program. Who at the State does this (DWR or CVFPB)? How does the State determine when it’s necessary?

The State can request the program be opened, but ultimately this decision rests with the District Commander (COL James Handura). With advice from the PL 84-99 Program Manager and with consultation with Division and HQ the Commander can “open” the RP without the need for the State to request. This was done in 2017 as it was immediately obvious that the RP would be utilized.

- 4) How will we know if the PL84-99 is opened in Nevada? Will Nevada projects have to compete for dollars with CA? Is funding offered based on cost benefit analysis? Can this process be used on repairs other than Levees? Can it be used within the Federal project on areas and structures that were not specifically part of the Federal Project?

For all states within Sacramento District's boundary the notification will be the same. The PL 84-99 Program Manager will work with the State EOC, LMAs, and/or Sponsors for active systems, as listed in the NLD, to notify them of the RP being open.

Funding for any event is determined by HQ. Based on National evaluation of events, HQ works to fund all projects submitted based on a worst first approach. HQ is currently working to add all channel projects into the NLD. There is no date set for release yet.

Information on the BCR can be found in Chapter 2 of ER 1105-2-100 regarding National Economic Development Benefit Cost Analysis. Yes, the RP can be used to repair flood control works other than levees. ER 500-1-1 Chapter 5 provides more information on those structures that do and do not qualify for the RP.

In General the RP cannot be applied to structures outside of the Federal project.

- 5) The State and locals have stepped up to perform more flood fighting on their own. This is a great accomplishment but it seems that an unintended consequence is the Corps is asked for assistance less and is therefore less likely to understand the extent of the flood. Does the State or Corps have recommendations on how the local can improve this communication?

As with any disaster event the preferred method of response is that the lowest level of Government handle the event. This is, in most cases, the most efficient and most cost effective. However, both the State and Federal government response is designed to provide assistance when the lower level becomes overwhelmed. In order for the level of effort to be understood at all levels, the locals must communicate up through the Sponsor who can apprise the State, who should be notifying their Federal partners of the response extent. Participation in the pre-season flood briefs provided by DWR is a great first step building the necessary relationships to achieve that communication link.

- 6) Where in the Federal Budget does this funding fall under, by title or number? And how is the BCR calculated?

PL 84-99 rehabilitation funding is a congressional budget line item, based on past budgets it can be under one of several different appropriations.

The Section on BCR is now in Chapter 2 of ER 1105-2-100. In addition, the full BCR economic review and analysis is captured in the PIR for an eligible RP. Any completed past project would be a good place to review the level of detail that is performed by the cost engineering team in

preparing the BCR. Additional details for the BCR and economic analysis can be found in Appendix D of EP 500-1-1, and Appendices D and E of ER 1105-2-100.

- 7) Can we access the list of eligible levee in the National Levee Database? Where?

<https://levees.sec.usace.army.mil/#/> This is the link to the NLD. There are several ways to “drill down” within the site to show levees that are active in the RP by State and through other attributes.

- 8) If an erosion will lead to an emergency repair, can LMA's use rehabilitation funds to fix a repair that will lead to an emergency fix as long as it meets the monetary thresholds?

Sites are either eligible for rehabilitation assistance or they are not based on the circumstances surrounding the site and the system. The cooperation agreements allow for the sponsor to provide work in kind if the non-federal sponsor would like to repair the site rather than have the USACE repair the site. USACE doesn't provide rehabilitation funding directly to LMAs. A discussion of “when does erosion get to the point where it will affect the ability of a levee to perform” (and then potentially qualify for the RP) has been added to the future follow up actions.

- 9) It could really help the locals to understand what erosion is eligible. Denial letters from 2019 mentioned the damage was not part of the "constructed project"; terminology which is not in ER 500-1-1. These sites may be marked by Sac Bank and then we get into a catch 22 about site eligibility. A follow up small group meeting would be great to discuss this topic.

A small group discussion of this topic has been added to the list of potential follow up workshops / discussions.

Also for a bit of clarification: ER 500-1-1 states rehabilitation is limited to repair or restoration of a Flood Control Work to pre-disaster condition. The FCW is defined in the EP as the structure designed and constructed to have appreciable and dependable effects in preventing damages caused by unusual flooding.

- 10) It would be helpful to better understand what seepage/boils are eligible. The USACE criteria for Order 3/4 sites states "Localized low volume seepage with clear water not carrying material from the levee foundation or levee embankment" however seepage only sites were denied. This should also be part of the small group discussion.

Seepage and boils do not automatically qualify a rehabilitation request as eligible. They can be a component of the overall evaluation of a damaged

site that helps determine if the site qualifies for rehabilitation and a factor in determining at what class the project would be classified.

- 11) Could USACE explain the timelines for each step in the process from site submission to PIR approval to construction? Another local had a similar question re timelines because right now the system appears to take at least 2 years. As George Qualley explained, we have PL-99 events in 1995, and 1997. He did not mention that we had another big one in 1998. I do not think the current system can handle 3 big events in 4 years.

Timeline for the rehabilitation program is supposed to be as fast as possible. That said, there are many factors that dictate when a project will be completed. In an ideal world a project is submitted, 45 days later the PIR is completed and the recommended repair has buy in from the Sponsor, the PIR is submitted to Division who has 10 days to review and either deny or approve. Once approved, funding is requested from HQ within 2-3 days. HQ has no time limit per regulation on supplying funds. In most cases, funding happens within the same FY. Once funding is in place, the timeline for construction will vary with the complexity of the project and the time of the year. Most projects have relatively small work windows based on flood season and environmental considerations. Some projects can be completed the same year, some will take several years. The sponsor must certify that it has sufficient real estate rights to construct operate and maintain the rehabilitation effort prior to USACE construction which has been a problem in the past.

- 12) Can the program "add" recreation features to the levee? Can it repair an existing recreation feature? Like a trail head parking lot, or a ramp to allow easier access by bicycles? Would the PIR allow/not allow this type of expense?

Recreation features cannot be rehabilitated or added under PL 84-99.

- 13) Given the resource constraints the PL84-99 Program Manager mentioned, has Sacramento District considered hiring contractors to develop PIRs. That has been done in years past.

Yes, Sacramento District has looked at that alternative as well as pulling in other Districts to assist with workload. Each event is different and the workload is evaluated to determine the most efficient way to address the requests.

The State added: That is a good point. In 2017, CVFPB/USACE received over 200 sites, and in 2019 over 50 site submittals for PL 84-99 Rehabilitation.