DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET NW
WASHINGTON, D.C. 20314-1000

CECW-SAD

MAR 3 2009

MEMORANDUM FOR COMMANDER, South Atlantic Division (CESAD-PM)

SUBJECT: Implementation Guidance for Section 1001(17) of the Water Resources Development Act of 2007 (WRDA 2007) – MIAMI HARBOR, MIAMI-DADE COUNTY, FLORIDA

1. Section 1001(17) of WRDA 2007 authorizes the Secretary to carry out the project for navigation at Miami Harbor, Florida, in accordance with the Report of the Chief of Engineers dated 25 April 2005, at a total cost of $125,270,000, with an estimated Federal cost of $75,140,000 and an estimated non-Federal cost of $50,130,000. This section further directs that the non-Federal share of the cost of the General Reevaluation Report (GRR) that supported the Report of the Chief of Engineers shall be shared at the same percentage as the construction of the project. Finally, this section directs the Secretary to enter into a new partnership agreement with the non-Federal sponsor to reflect this cost sharing requirement. A copy of Section 1001 (17) is enclosed.

2. The District undertook the GRR for the Phase III work, which was later authorized in WRDA 2007, pursuant to the Project Cooperation Agreement (PCA) for the Phase II work and cost shared this study effort at 75 percent Federal and 25 percent non-Federal expense. Per direction from the Assistant Secretary of the Army (Civil Works) (ASA(CW)), the District was directed to execute a feasibility cost sharing agreement (FCSA) for the GRR with 50 percent Federal and 50 percent non-Federal cost sharing. However, prior to the execution of the FCSA, WRDA 2007 changed the cost sharing for preparation of the GRR to construction cost sharing and authorized construction of the Locally Preferred Plan for the Phase III work.

3. Based on the direction in WRDA 2007 regarding cost sharing of the GRR, the District shall complete the following actions: (1) revise the cost accounting for the PCA for the Phase II work to remove the costs and non-Federal contributions associated with the GRR for the Phase III work and (2) upon receipt of construction funds for Phase III work, negotiate a Project Partnership Agreement (PPA) that includes the costs and non-Federal contributions associated with the Phase III GRR in total costs of the general navigation features so the costs of the GRR are shared at the same percentage as the construction costs for the Phase III work. The total costs of the Phase III general navigation features (GRR, design, and construction) will be shared in accordance with the provisions Section 101 of the Water Resources Development Act (WRDA) 1986, as amended by Section 201 of WRDA 1996, as follows:

> *(1) The Sponsor's share shall be: a) 10 percent for costs allocated to depths not in excess of 20 feet, excluding associated over-depth and entrance channel wave allowances; b) 25 percent for costs allocated to depths in excess of 20 feet but not in excess of 45 feet, excluding associated over-depth and entrance channel wave allowances; c) 50 percent for costs allocated to depths in excess of 45 feet, excluding associated over-depth and entrance channel wave allowances; and d) 100 percent of all costs associated with the implementation of the Locally Preferred Plan that are above the costs of the NED plan.*

> *(2) In addition, the Sponsor shall pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period not to exceed 30 years, at an interest rate determined pursuant to section 106. The value of lands, easements, rights-of-way, relocations, and dredged material disposal areas shall be credited toward the payment required under this paragraph.*

4. The Miami Harbor project for the Phase III work may be considered for implementation in accordance with the existing budgetary policy and procedural guidance. The District may proceed with the Design Agreement for Phase III. No construction of Phase III may be undertaken until funds are appropriated for such work and a PPA is executed. Further, no funds will be reprogrammed to the Miami Harbor project for design or construction of Phase III unless such reprogramming action is approved, in advance, by the ASA(CW).

FOR THE COMMANDER:

Encl

JAMES C. DALTON, P.E.
Chief, South Atlantic Division
Regional Integration Team
Directorate of Civil Works

SEC. 1001(17). MIAMI HARBOR, MIAMI-DADE COUNTY, FLORIDA

(A) IN GENERAL.—The project for navigation, Miami Harbor, Miami-Dade County, Florida: Report of the Chief of Engineers dated April 25, 2005, at a total cost of $125,270,000,with an estimated Federal cost of $75,140,000 and an estimated non-Federal cost of $50,130,000.

(B) GENERAL REEVALUATION REPORT.—The non-Federal share of the cost of the general reevaluation report that resulted in the report of the Chief of Engineers referred to in subparagraph (A) shall be the same percentage as the non-Federal share of cost of construction of the project.

(C) AGREEMENT.—The Secretary shall enter into a new partnership with the non-Federal interest to reflect the cost sharing required by subparagraph (B).