



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

CECW-LRD

AUG 14 2008

MEMORANDUM FOR COMMANDER, GREAT LAKES AND OHIO RIVER DIVISION
(CELRD-PDS-P)

SUBJECT: Implementation Guidance for Sections 1004(a)(18) and 1004(b)(1) of the Water Resources Development Act of 2007 (WRDA 2007) – Traverse City Harbor, Traverse City, Michigan.

1. Section 1004(a)(18) directs the Secretary to conduct a study of a project for navigation at Traverse City Harbor, Michigan, and if a feasible project is identified, the Secretary may carry out the project under Section 107 of the River and Harbor Act of 1960, as amended (33 USC 577). In conducting the navigation study for Traverse City Harbor, the Secretary is directed under Section 1004(b)(1) to review the locally prepared plan for the Traverse City Harbor, Michigan, project. This section provides the Secretary discretionary authority to carry out the local plan if it has been determined the plan is feasible and if the plan meets U.S. Army Corps of Engineers evaluation and design standards. Furthermore, the section directs the Corps to credit the non-Federal Sponsor towards the cost of the non-Federal share of the project cost, the cost of integral work completed by the non-Federal sponsor prior to execution of a partnership agreement. A copy of the subject provisions is enclosed.
2. Using existing funds provided by Congress, the Detroit District should negotiate and execute a CAP Feasibility Cost Sharing Agreement (FCSA) with the non-Federal sponsor to complete a feasibility study for the project in accordance with the requirements of Appendix F of ER 1105-2-100. The feasibility study should concentrate on the evaluation of the locally prepared plan to confirm a Federal interest, to determine if the plan falls within a range of alternatives likely to be evaluated in a feasibility study, that the plan is economically justified and reasonably maximizes National Economic Development benefits, is environmentally sound, and engineeringly feasible. The District should note that a project implemented under Section 107 of the River and Harbor Act of 1960, as amended, must demonstrate that the benefits of the project exceed the costs. In that regard, it will be particularly important that the district identify the benefit categories, and the benefits themselves, in sufficient detail to determine whether Federal participation is warranted. This extends, as well, to identification of land owners abutting the harbor facilities and a full description of all users of the harbor, both public and private.
3. If the feasibility report does not demonstrate the project to be feasible, no additional design or construction work shall be undertaken unless funds are specifically appropriated for such work. If the feasibility report is approved the project may be considered for implementation in accordance with current budget guidance for projects under Section 107, River and Harbor Act of 1960, as amended.

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4. If the project proceeds to construction, Section 1004(b)(1) directs the Secretary to afford credit toward the non-Federal share of the cost of the project for work (construction and design required for such construction) carried out by the non-Federal interest for the project before the date of the project partnership agreement (PPA). The guidance and procedures contained in Engineering Circular No. 1165-2-208, In-Kind Contribution Provisions of Section 221, dated 6 June 2008, will be used to determine eligibility of credit for such work (construction and design required for such construction). The actual value of the eligible work and amount of credit afforded will be determined in accordance with the terms and conditions of the PPA for the project. Section 1004(b)(1) does not provide authority to afford credit for: 1) costs of preparation of the locally preferred plan; 2) design work performed prior to execution of the PPA except for the design required for the construction performed by the non-Federal interest prior to execution of the PPA; or 3) design or construction work carried out by the non-Federal interest after the date of execution of the PPA.

FOR THE COMMANDER:



STEVEN L. STOCKTON, P.E.
Director of Civil Works

Encl

Water Resources Development Act of 2007

SEC. 1004. SMALL PROJECTS FOR NAVIGATION.

(a) **IN GENERAL.**—The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(18) **TRAVERSE CITY HARBOR, TRAVERSE CITY, MICHIGAN.**—Project for navigation, Traverse City Harbor, Traverse City, Michigan.

(b) **SPECIAL RULES.**—

(1) **TRAVERSE CITY HARBOR, TRAVERSE CITY, MICHIGAN.**—

The Secretary shall review the locally prepared plan for the project for navigation, Traverse City Harbor, Michigan, referred to in subsection (a)(18), and, if the Secretary determines that the plan meets the evaluation and design standards of the

Corps of Engineers and that the plan is feasible, the Secretary may use the plan to carry out the project and shall provide credit toward the non-Federal share of the cost of the project for the cost of work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project.