



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

JUN 16 2008

MEMORANDUM FOR THE DIRECTOR OF CIVIL WORKS

SUBJECT: Section 221(e) of the Flood Control Act of 1970 as Amended by Section 2003 of the Water Resources Development Act of 2007 - Delegation of Authority for Project Partnership Agreements

The purpose of this memorandum is to establish policies and guidelines whereby approval and signature authority for project partnership agreements (formerly known as project cooperation agreements) for water resources projects will be delegated to the Army Corps of Engineers in accordance with Section 221(e) of the Flood Control Act of 1970, as amended by Section 2003 (c)(2) of the Water Resources Development Act of 2007.

Implementation guidance for Section 221(e)(4) of the Flood Control Act of 1970, as amended, was provided to the Corps in the attached memorandum dated December 30, 2007. Section 221(e)(4) authorized district engineers to sign any project partnership agreement (PPA) unless, within 30 days of the date of authorization of the project, the Secretary of the Army notifies the district engineer that the Secretary wished to retain the prerogative to sign the PPA. In the attached memorandum, I notified the Corps that I wish to retain the prerogative to execute all PPAs that are forwarded to the Army for review and approval under current policies and procedures. That guidance applies to all PPAs that do not follow an approved model. The guidance contained in the December 30, 2007 memorandum remains in effect. The guidance that follows in this memorandum pertains to Sections 221(e)(1), (2) and (3) of the Flood Control Act of 1970, as amended.

In the past four years, numerous models for various project purposes and programmatic authorities have been approved. Authority to approve and execute individual agreements using these models has been delegated to the Corps Headquarters (HQUSACE), with authority to redelegate to the Major Subordinate Commands (MSCs) and the Districts. The primary basis for delegating authority to approve and execute agreements under the subject provisions of the Water Resources Development Act of 2007 will be through the continued development of models by the Corps and approval of such models by this office. Use of models ensures national consistency, policy compliance, legal sufficiency, and equitable treatment of non-Federal sponsors. The models should include, when appropriate, optional language that allows the models to be applicable to a larger universe of projects. In addition, each model should have an implementation memorandum that documents the approval and signature authorities applicable for such model.

Districts may incorporate into future PPAs, without further approval by this office, a provision from a PPA previously approved by this office if both of the following conditions are met: (1) the provision is in accordance with published Corps policy (in either implementation guidance or regulations); and (2) the applicable MSC provides a written determination that use of the provision is acceptable in the proposed PPA and the applicable HQUSACE Regional Integration Team (RIT), HQUSACE Office of the Chief Counsel, and HQUSACE Planning and Policy Compliance Division, all located in Washington, DC, concur in such determination. This delegation does not apply to any PPA provision that addresses an exception to policy due to project specific circumstances.

Districts may incorporate into a future PPA, without further approval by this office, the specific terms of provisions that are dictated by explicit statutory language as affirmed by implementation guidance for the statutory provision.

Districts may incorporate into a future PPA the specific terms of a PPA provision contained in the final decision document for a water resources project if the provision is in accordance with published Corps policy (in either implementation guidance or regulations). Districts may not incorporate into a future PPA the specific terms of a PPA provision contained in the final decision document for a water resources project if the provision is not in accordance with Corps policy unless the applicable MSC provides a written justification that use of the provision is acceptable in the proposed PPA and the applicable HQUSACE RIT, HQUSACE Office of the Chief Counsel, and HQUSACE Planning and Policy Compliance Division, all located in Washington, DC, concur in such determination.

The final decision document for projects that are or will be specifically authorized include the Report of the Chief of Engineers, the Secretary's Report, or the Director of Civil Works Report, whichever is last approved. The final decision document for projects implemented pursuant to the Continuing Authorities Program and other regional authorities that do not require additional authority to implement a project is the decision document for the project approved by the MSC Commander. However, the Corps HQUSACE, MSCs, and Districts are reminded that they do not have the authority to approve a decision document that is not policy compliant, regardless of the cost of the project.



John Paul Woodley, Jr.
Assistant Secretary of the Army
(Civil Works)

Attachment