DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
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WASHINGTON DC 20314-1000

APR 09 2015

CECW-P

MEMORANDUM FOR Commanders, Major Subordinate Commands

SUBJECT: Implementation Guidance for Section 1002 of the Water Resources Reform and Development Act (WRRDA) of 2014 – Consolidation of Studies

1. Section 1002 of WRRDA 2014 amends Section 905 of the Water Resources Development Act (WRDA) 1986 to establish a single phase cost-shared study process by repealing the requirement for a reconnaissance study first at full Federal expense and requiring instead that a preliminary analysis of the federal interest, cost, benefits, and environmental impact be done following execution of the feasibility cost sharing agreement. Additionally, Section 1002 requires certain reporting and notification of study schedules. A copy of Section 1002 is enclosed.

2. Applicability. The single phase study process applies to all feasibility studies of projects that will require specific authorization and for which the Feasibility Cost Sharing Agreement (FSCA) is executed after 10 June 2014 except that any study for which the reconnaissance phase was initiated prior to the passage of WRRDA 14 shall continue to follow existing guidance and processes for reconnaissance level studies pursuant to Section 905 (b) of WRDA 1986 as it existed before enactment of WRRDA 14. Studies that were ongoing with a signed FCSA when WRRDA 2014 was enacted are not impacted by Section 1002.

3. Implementation. For new feasibility studies under consideration for the Fiscal Year (FY) 17 Budget and thereafter, the identification of new start investigations studies will follow the method defined in the annual Corps of Engineers Civil Works Direct Program Budget Development Guidance (Engineer Circular). Special Investigations funding will be provided by HQUSACE to conduct a screening process to ensure that the most viable studies are recommended as New Start studies. During the screening process the non-federal sponsor and the water resource problem that may warrant Corps of Engineers investigation will be identified. A preliminary analysis will not be performed on a study until after the FCSA is signed. HQUSACE, Division and District staff will participate in this screening process to identify appropriate non-federal sponsors, potential federal interest, and ensure that study authority exists in order to develop a viable portfolio of new start studies. In accordance with the annual Budget Circular, the Major Subordinate Command (MSC) will submit a regional portfolio for HQUSACE consideration in development of the National New Start Investigations Portfolio.

In accordance with Section 105(a) of WRDA 1986, as amended, all feasibility level work must be cost shared on a 50/50 basis. No Federal funds will be provided in advance of

an executed FCSA except where otherwise provided in law and no feasibility work may begin until funds are allocated and a FCSA is signed.

a. For studies selected as new starts in FY15 and FY16, districts will be provided $5,000 from Special Investigations to discuss the single phase process with the identified sponsor.

b. Starting with the development of the FY17 Budget during the new start screening process, the District will discuss with the potential sponsor the single phase study process to ensure awareness and understanding of the requirement of signing a FCSA to initiate the study and obtain a Letter of Intent.

c. Once a study is identified in the President's Budget as a new start study, the appropriate District will send the model FCSA, to the identified sponsor. The model FCSA will be posted at the following link:
http://www.usace.army.mil/Missions/CivilWorks/ProjectPartnershipAgreements/model_other.aspx

d. Once funds are provided for in a Statement of Managers or in a cleared work plan for a study, the FCSA may be executed.

e. Once the FCSA is signed, HQUSACE will allocate the funding to initiate the single phase study. The single phase study will follow the established SMART planning process and milestones, reference the Planning Bulletin 2012-02: Planning SMART Guide. Prior to the Alternatives Milestone, the Project Delivery Team (PDT) will verify Federal interest and conduct and document a preliminary analysis of the Federal interest and the rough order of magnitude of costs, benefits, and environmental impacts. If at any point during the Feasibility study it is determined that there is no Federal interest, the study will be terminated. Further, the study may be terminated at any point by either party consistent with the terms of the FCSA.

f. The following subset of established feasibility study milestones that mark significant decision points and review and comment periods will be used for establishing detailed project schedules and for notification and reporting purposes. The information provided in parenthesis following each milestone is the code used to identify the milestone in the USACE database system known as P2.

i. Release of draft feasibility report for public comment and concurrent review (CW250)

ii. District submits final feasibility report (CW160)

iii. MSC transmittal of final feasibility report (CW260)

iv. CWRB (CW245)

v. Signed Chief's Report (CW270)

g. For each feasibility study undertaken, the District Engineer will develop a detailed study schedule, based upon full funding capability, in accordance with the established feasibility study milestones as directed annually in the Execution of the Annual Civil Works Program Engineering Circular and document it in the Project Management Plan.

4. Non-Federal Interest Notification. The District Engineer shall adhere to the following notification requirements regarding project schedules and milestones.

a. For each active study funded in the Investigations appropriations, beginning on 1 October 2009 until 10 June 2014, the District Engineer must provide the detailed project schedule to each non-federal sponsor. The schedule must be sent via certified mail by 10 June 2015.

b. For each study initiated after 10 June 2014, the District Engineer must provide the study milestone schedule to each non-federal sponsor via certified mail within ninety days of signing the FCSA.

c. If the District Engineer fails to meet any of the scheduled milestone dates for studies listed above, the District Engineer will submit a letter to the non-federal Sponsor within 30 days of the missed deadline. The letter will include reasons why the District Engineer failed to meet the deadline and a revised schedule reflecting amended dates for the remaining feasibility study milestones. The revised milestone schedule will be made publicly available, including on the District's Internet. In addition, the District Engineer must provide a copy of the missed deadline letter to their respective MSC and HQUSACE Regional Integration Team.

5. Annual Reporting. By 15 August of year, the MSC will provide the RIT a comprehensive list of detailed study schedules. By 30 August of each year, each RIT will provide CECW-P a comprehensive list of detailed study schedules from its respective major subordinate command, based upon full funding capability, in accordance with the established feasibility study milestones. This comprehensive list will include the explanations for missed milestones during the year. CECW-P will compile a comprehensive list and submit it to the Secretary by 30 September of each year for submission to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. Within 14 days of submission of the list to the Committees, CECW-P will post the list on the HQUSACE Internet.

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6. This guidance is effective immediately and will be incorporated into the Planning Guidance Notebook (ER 1105-2-100) upon the next revision.

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Encl

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WRRDA 2014 LANGUAGE

SEC. 1002. Consolidation of Studies

(a) In general

(1) Repeal - Section 905(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2282(b)) is repealed.

(2) Conforming amendment - Section 905(a)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2282(a)(1)) is amended by striking perform a reconnaissance study and.

(b) Contents of feasibility reports - Section 905(a)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 2282(a)(2)) is amended by adding at the end the following: A feasibility report shall include a preliminary analysis of the Federal interest and the costs, benefits, and environmental impacts of the project.

(c) Feasibility studies - Section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282) is amended by adding at the end the following:

(g) - Detailed project schedule

(1) In general

Not later than 180 days after the date of enactment of this subsection, the Secretary shall determine a set of milestones needed for the completion of a feasibility study under this subsection, including all major actions, report submissions and responses, reviews, and comment periods.

(2) Detailed project schedule milestones

Each District Engineer shall, to the maximum extent practicable, establish a detailed project schedule, based on full funding capability, that lists all deadlines for milestones relating to feasibility studies in the District developed by the Secretary under paragraph (1).

(3) Non-Federal interest notification

Each District Engineer shall submit by certified mail the detailed project schedule under paragraph (2) to each relevant non-Federal interest—

(A) for projects that have received funding from the General Investigations Account of the Corps of Engineers in the period beginning on October 1, 2009, and ending on the date of enactment of this subsection, not later than 180 days after the establishment of milestones under paragraph (1); and

(B) for projects for which a feasibility cost-sharing agreement is executed after the establishment of milestones under paragraph (1), not later than 90 days after the date on which the agreement

is executed.

(4) Congressional and public notification

Beginning in the first full fiscal year after the date of enactment of this subsection, the Secretary shall—

(A) submit an annual report that lists all detailed project schedules under paragraph (2) and an explanation of any missed deadlines to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) make publicly available, including on the Internet, a copy of the annual report described in subparagraph (A) not later than 14 days after date on which a report is submitted to Congress.

(5) Failure to Act - If a District Engineer fails to meet any of the deadlines in the project schedule under paragraph (2), the District Engineer shall—

(A) not later than 30 days after each missed deadline, submit to the non-Federal interest a report detailing—

(i) why the District Engineer failed to meet the deadline; and

(ii) a revised project schedule reflecting amended deadlines for the feasibility study; and

(B) not later than 30 days after each missed deadline, make publicly available, including on the Internet, a copy of the amended project schedule described in subparagraph (A)(ii).

(d) Applicability - The Secretary shall continue to carry out a study for which a reconnaissance level investigation has been initiated before the date of enactment of this Act as if this section, including the amendments made by this section, had not been enacted.