DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

CECW-ET (415)

03 AUG 2001

MEMORANDUM FOR COMMANDERS, MAJOR SUBORDINATE COMMANDS

SUBJECT: Implementation of Section 221 of the Water Resources Development Act of 2000 (WRDA 2000) – Design-Build Contracting

1. Section 221 of the Water Resources Development Act of 2000 provides discretionary authority to the Secretary to conduct a pilot program consisting of not more than 5 authorized projects to test the design-build method of project delivery on various civil works projects. The intent of the pilot program is to apply the design-build project delivery method to a representative sampling of civil works projects to monitor its effectiveness and provide information that can be used on future design-build civil works projects. Project types mentioned in the legislation include levees, pumping plants, revetments, dikes, dredging, weirs, dams, retaining walls, generation facilities, mattress laying, recreation facilities, and other water resource facilities. Although not specifically mentioned, some other types of work that might offer good candidates for design-build include diked disposal facilities, floodwalls, and erosion protection facilities.

2. The Secretary is required to transmit to Congress a report on the results of the pilot program not later than 4 years after enactment of the Act, which occurred on 11 December 2000. No additional appropriations are provided for this pilot program. A copy of the legislative language is enclosed for your information. (Enclosure)

3. Each major subordinate command is requested to nominate at least two candidate projects for consideration to be included in the pilot program.

a. Criteria for nomination include:

- construction of each specifically authorized project must be either fully funded or budgeted for continuation;

- each continuing authorities program (CAP) project must be consistent with policy and must have an approved feasibility report or planning and design analysis, as applicable;

- expected substantial project (contract) completion within 3 years of this memo and construction schedule will not be delayed as a result of design-build process;

- support of local sponsors to use design-build (If applicable, the nomination package should include a letter from the sponsor supporting use of design-build on the project.);

- good potential to benefit from using the design-build method based upon application of acquisition strategy factors found at Appendix A of ER 1180-1-9, Design-Build Contracting dated 31 July 1999; and

- comply with current policies, be economically justified if monetary benefits can be quantified or, if there are no monetary benefits, be justified based on environmental protection and restoration outputs, and be environmentally acceptable.

b. for the purposes of this pilot program, a "project" is defined as a stand alone project or a portion of a larger civil works project selected to be executed using a design-build contract.

c. Although desirable, the ER requirement for full contract funding at award is not absolute and the Continuing Contracts clause in the Engineer Federal Acquisition Regulation Supplement (EFARS) 52.232-5001 may be used when authorized and appropriate.

4. Nominations should be submitted to HQUSACE, ATTN: CECW-ET within 60 days from date of this memorandum and must address the criteria above. Upon notification of selection, the responsible district is expected to proceed expeditiously to:

- where necessary, develop a design-build Project Cooperation Agreement (PCA), or amend an existing PCA, to address the design-build portion of the project, which must be approved and executed in accordance with standard operating procedures, prior to issuing the solicitation;

- obtain a commitment of construction funds for CAP projects from HQUSACE, ATTN: CECW-B prior to issuing the solicitation; and

- conduct a design-build procurement using the two-phase design-build selection procedures prescribed by Federal Acquisition Regulation (FAR) subpart 36.3.

5. Information to be gathered for the Secretary's report will include project name, location, scope, initial schedule and cost, final (or current) schedule and cost, advantages and disadvantages of using design-build and other lessons learned including such issues as changes and impacts to traditional workforce roles and responsibilities. Full report requirements will be provided when projects are selected. My point of contact is Mark Grammer at 202-761-4127.

FOR THE COMMANDER:

Encl

DWIGHT A. BERANEK, P.E.
Chief, Engineering and Construction Division
Directorate of Civil Works

SEC. 221. DESIGN-BUILD CONTRACTING.

(a) PILOT PROGRAM. —The Secretary may conduct a pilot program consisting of not more than 5 authorized projects to test the design-build method of project delivery on various authorized civil works projects of the Corps of Engineers, including levees, pumping plants, revetments, dikes, dredging, weirs, dams, retaining walls, generation facilities, mattress laying, recreation facilities, and other water resources facilities.

(b) DESIGN-BUILD DEFINED. —In this section, the term ''design-build'' means an agreement between the Federal Government and a contractor that provides for both the design and construction of a project by a single contract.

(c) REPORT. —Not later than 4 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the pilot program.