

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

**"Alaska Environmental Improvement Program"  
PROGRAM IMPLEMENTATION GUIDELINES**

1. **PROGRAM OBJECTIVE:** The primary objective of the Alaska Environmental Improvement Program is to provide planning, design, and construction assistance to non-Federal interests for carrying out water related environmental infrastructure and resource protection and development projects in Alaska, including projects for waste water treatment and related facilities, water supply, storage, treatment, and distribution facilities, and development, restoration or improvement of wetlands and other aquatic areas for the purpose of protection and development of surface water resources.

2. **AUTHORITY:** The Alaska Environmental Improvement Program was authorized and funded by Section 101 of the Energy and Water Development Appropriations Act of 1998 (Public Law No. 105-62) for Fiscal Year 1998. Section 101 follows:

**SEC. 101. ALASKA ENVIRONMENTAL IMPROVEMENT PROGRAM**

*"In fiscal year 1998, the Secretary of the Army is authorized and directed to provide planning, design and construction assistance to non-Federal interests in carrying out water related environmental infrastructure and environmental resources development projects in Alaska, including assistance for wastewater treatment and related facilities; water supply, storage, treatment and distribution facilities; and development, restoration or improvement of wetlands and other aquatic areas for the purpose of protection and development of surface water resources: Provided, that the non-Federal interest shall enter into a binding agreement with the Secretary wherein the non-Federal interest will provide all lands, easements, rights-of-way, relocations, and dredged material disposal areas required for the project, and pay 50 per centum of the costs of required feasibility studies, 25 per centum of the costs of designing and constructing the project, and 100 per centum of the costs of operation, maintenance, repair, replacement, or rehabilitation of the project; Provided further, That the value of lands, easements, rights-of-way, relocations and dredged material disposal areas provided by the non-Federal interest shall be credited toward the non-Federal share, not to exceed 25 per centum, of the costs of designing and constructing the project; Provided further, That utilizing \$5,000,000 of the funds appropriated herein, the Secretary is directed to carry out this section."*

3. **APPROPRIATIONS:** The Energy and Water Development Appropriations Act for Fiscal Year 1998 (Public Law No. 105-62) included funds totaling \$5,000,000 for the Corps of Engineers to conduct the Environmental Infrastructure Program in the State of Alaska for Fiscal Year 1998. The relevant section from the legislation is reproduced above.

#### 4. USES OF FY 1998 FUNDS:

(a) **Program Administration.** From the \$5,000,000 appropriated in FY 98 the Alaska District may use up to \$100,000 for program administration activities.

(b) **Project Fact Sheet.** The Alaska District will use up to a maximum of \$10,000 to prepare a project fact sheet and scope of work, obtain a letter of intent, and negotiate an agreement for each study/sponsor that has indicated an interest in participating in the program and for which funds are available.

(c) **Format and Content.** Fact sheets will follow the format of Appendix D. The submittal must contain a letter of support from the non-Federal sponsor and a fully negotiated assistance cost-sharing agreement. It is intended that the factsheets be succinct, supported by relevant facts, information and data.

(d) **Submittal.** The Alaska District will submit its factsheets, scope of work, and a letter of intent concurrently to the Pacific Ocean Division and HQUSACE, ATTN: CECW-PE for approval. Electronic fax (to CECW-PE on 202-761-0140) and E-mail (to CECW-PE) transmittals will be accepted for initial submission followed by receipt of a hard copy shortly thereafter.

#### 5. PLANNING ASSISTANCE COST SHARING AGREEMENTS.

(a) **Project Specific Planning Assistance.** Before providing cost-shared project specific planning assistance under the Section 101 Program, the Army shall enter into a feasibility cost sharing agreement with an eligible non-Federal sponsor. Total project costs under each agreement shall be cost shared 50 percent Federal and 50 percent non-Federal. No in-kind services are authorized for any portion of the non-Federal sponsor's share of planning studies.

(b) **Model Agreements.** A model planning assistance cost sharing agreement to be used for the purpose of providing planning assistance under Section 101 is provided at Appendix A. The cost of preparing a planning assistance agreement and supporting technical documentation, which will not normally exceed \$10,000, will be 100 percent Federal. Subject to HQUSACE approval of the factsheet, the District Engineer has been delegated the authority to execute the model planning assistance agreement (Appendix A). District Counsel must certify legal sufficiency of all planning assistance agreements entered into under Section 101. Any deviations to the model agreement must be submitted to HQUSACE for review and approval prior to execution.

#### 6. DESIGN AND CONSTRUCTION COST SHARING AGREEMENTS.

(a) **Project Specific Design and Construction Assistance.** Before providing cost-shared project specific design and construction assistance under the section 101 program, the Army shall enter into a project cooperation agreement with an eligible non-Federal sponsor. Total project costs under each agreement shall be cost shared 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way,

and relocations provided for the project but not to exceed 25 percent of total project costs. Operation and Maintenance costs shall be 100 percent non-Federal. District Counsel must certify legal sufficiency of all project cooperation agreements. Each agreement will include an explicitly defined Scope of Works (SOW) and an itemized breakdown of each party's responsibilities, including costs.

(b) **Model Agreements.** A project cooperation agreement between the Army and the sponsor will be executed by the Army and the sponsor prior to starting work under this program. Model agreements are provided in Appendices B and C. Subject to HQUSACE approval of the factsheet and the scope of work, the District Engineer may execute all design agreement (Appendix B). The Assistant Secretary of the Army for Civil Works will execute all construction agreements for the Army (Appendix C) with the total construction cost greater than \$2,000,000. Subject to HQUSACE approval of the factsheet and the scope of work, the District Engineer may execute any construction agreements for the Army (Appendix C) with the total construction cost less than \$2,000,000 and without substantial deviation from project factsheet approved by HQUSACE. Any deviations to these model agreements must be submitted to HQUSACE for review and approval prior to execution.

## 7. COMMON CHARACTERISTICS OF ENVIRONMENTAL IMPROVEMENT

**PROJECTS.** Each project will address a unique set of needs and opportunities; however, the following characteristics should be common to every project:

(a) **Public Ownership.** Assistance may be provided only for projects that are publicly owned.

(b) **Lands, Easements, Rights-of-Way, Relocations, and Disposal Areas (LERRDs).** The non-Federal sponsor is responsible for providing all lands, easements, rights-of-way, relocations, and disposal areas required for the project. It will receive credit for the value of such LERRDs toward its share of project costs, but not to exceed twenty-five (25%) percent of the total costs of the project.

(c) **Joint Funding.** Section 101 requires joint funding between the Federal Government and the non-Federal sponsor. The non-Federal sponsor will contribute 50 percent of the cost of planning assistance in cash and 25 percent of the cost of design and/or construction in cash and/or, subject to the limitation discussed above, lands, easements, rights-of-way, and relocations. The non-Federal sponsor will be responsible for one hundred (100%) percent of all operation and maintenance costs.

(d) **Voluntary Contributions.** Subject to applicable law, the non-Federal sponsor may make additional voluntary contributions to the project. The non-Federal sponsor will not receive any credit for such additional voluntary contributions. Agreements providing for the acceptance of contributed funds must comply with the requirements of ER 1165-2-30.

(e) **Financial Analysis.** The Federal discount rate will not be required for evaluating or comparing alternative solutions to address the community's environmental infrastructure needs.

Market interest rates and inflation factors which are appropriate and relevant to the study area will be used.

(f) **Development of Scope.** The scope of the investigations to be conducted will be determined jointly by the Corps and the non-Federal sponsor. Districts are encouraged to use private sources for any necessary design or engineering assistance or related services associated with this program.

(g) **Analyses and Reporting Requirements.** While sound judgment and prudent analytical approaches should be employed, the specific requirements for conducting and reporting on economic and environmental procedures as outlined in Principles and Guidelines (P&G) and Corps regulations based on P&G will not be required. Because this is a service to non-Federal parties, the character and form of the Assistance should be established in partnership with the non-Federal partner. Corps cost estimating criteria will not be required for projects where the design and cost estimate has been substantially completed by others.

(h) **Design Criteria for High Risk Projects.** ETL-2-361, Life Cycle Design and Performance of Structures for Local Flood Protection dated 31 January 1994, (paragraph A-2b, "Technical Criteria") states “. . . [T]he Corps of Engineers has issued design criteria for Civil Works. These criteria are intended to ensure reliable designs for high risk projects such as local flood protection, flood control dams, and major navigation projects. ...[T]hese criteria are more stringent than related to commercial criteria." Corps criteria are waived for projects that are not high risk in nature, as defined in ETL 1110-2-361.

(i) **Financing Plan.** Each non-Federal sponsor must prepare a financing plan in accordance with ER 1105-2-100 evidencing its ability to assure financing of the project commensurate with the Federal commitment. In accordance with ER 1105-2-100, the District Engineer shall prepare an assessment of the non-Federal sponsor's financing plan.

(j) **Environmental Compliance.** For all design and construction projects, the Alaska District is responsible for compliance with Federal and State environmental statutes and policies. ER 1105-2-100, Table 5-3 identifies some of the statutes requiring consideration during feasibility and preconstruction planning.

8. **DRAFT PCA SUBMITTAL.** The standard PCA checklist should accompany all submittals of draft PCAs for HQUSACE review and approval. The checklist should provide appropriate annotations identifying materials provided and which items have not been provided. The draft PCA should be submitted to HQUSACE, ATTN: CECW-AR and must identify all deviations from the model agreement and explain the basis for the deviation.

9. **IMPLEMENTATION MONITORING.** Upon execution of the Assistance Agreement, quarterly thereafter, and immediately after completing the technical assistance work, the district shall submit to HQUSACE, ATTN: CECW-PE, a one page fact sheet with the following information:

1. Name:

2. Non-Federal Sponsor:
3. Description of Technical Assistance:
  
4. Date Agreement Executed:                      Fed Cost:                      Non-Fed Cost:
5. Schedule to Complete Assistance:
6. Status of Work:
7. Issues:
8. Comments:
9. Point of Contact:

**10. FUNDING OF PLANNING ASSISTANCE, DESIGN AND CONSTRUCTION EFFORTS.** The Congress currently has provided \$5,000,000 for all Federal funding of Section 101 programs. In order to properly track each project and ensure that the \$5,000,000 statutory limit is not exceeded, an article has been added to each model agreement advising the non-Federal Sponsor that if, at any time, the overall \$5,000,000 appropriations limit is exceeded, either the non-Federal sponsor will be responsible for all further costs, or the non-Federal sponsor will be permitted to exercise its right to terminate the agreement. In order to minimize the risk that this may occur, each individual effort under Section 101, whether for planning assistance, design or construction, will be fully funded at the time the cost sharing agreement is entered into. Exceptions must be approved by HQUSACE, ATTN: CECW-PE.

**11. REQUIREMENT TO ENTER INTO AGREEMENTS DURING FISCAL YEAR 1998.** The authorization provided by Congress for the Section 101 program is currently limited to Fiscal Year 1998. Ordinarily this would mean that all cost sharing agreements must be executed during the Fiscal Year. However, a legal opinion has been issued advising that if a cost sharing agreement is entered into during the fiscal year for a preliminary stage of the project implementation process (e.g., a planning assistance agreement or a design agreement), and that agreement contains a provision stating that, subject to the availability of funds and subject to the mutual agreement of the parties, further agreements may be entered into (e.g., a construction PCA), the later agreement relating to the same project may be executed after Fiscal Year 1998. An article stating the above has been added to both the model planning assistance agreement and the model design agreement. The funds appropriated by Congress for the Section 101 program are part of the Construction, General appropriation and are “no-year” funds. They do not expire at the conclusion of the Fiscal Year. Once a cost sharing agreement has been properly executed as described above, any contracting efforts required to implement the agreement such as architect-engineer contracts or construction contracts may be entered into after Fiscal Year 1998.