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

MAY 18 2011

MEMORANDUM FOR THE DIRECTOR OF CIVIL WORKS

SUBJECT: Implementation Guidance for Section 2008 of the Water Resources Development Act of 2007 - Revision of Project Partnership Agreement; Cost Sharing

1. Section 2008(a) of WRDA 2007 provides that upon authorization by law of an increase in the maximum amount of Federal funds that may be allocated for a water resources development project or an increase in the total cost of a water resources project, the Secretary shall enter into a revised project partnership agreement to take into account the change in Federal participation in the project. In addition, Section 2008(b) provides that an increase in the maximum amount of Federal funds that may be allocated for, or an increase in the total cost of, a water resources development project will not affect any cost sharing requirement applicable to the project. Finally, Section 2008(c) provides that the estimated Federal and non-Federal costs of water resources development projects are for informational purposes only and shall not be interpreted as affecting cost sharing requirements established by law. A copy of Section 2008 is enclosed.

2. Section 2008(a):

a. Continuing Authorities Program. The maximum amount of Federal funds that may be allocated for a water resources project refers to the statutory per project funding limit for projects implemented under the Continuing Authorities Program (CAP). In WRDA 2007, Section 2022 increased the per project funding limit for Section 107 projects; Section 2023 increased the per project funding limit for Section 14 projects; and Section 2028 increased the per project funding limit for Section 103 projects. The increased per project funding limits will be applied to all Section 107, Section 14, and Section 103 projects whose initial Federal construction contract is awarded on or after November 8, 2007. For any Section 107, Section 14, or Section 103 project with an executed project partnership agreement where the initial Federal construction contract was not awarded before November 8, 2007, the project partnership agreement will be amended to reflect the new per project funding limit. Review and approval of an amendment for this purpose is delegated to the MSC Commander and may not be further delegated. The District Commander is authorized to execute the amendment after its approval. In addition, the CECW-P/CECW-I memorandum, subject: Implementation Guidance for Sections of the Water Resources Development Act of 2007 Relating to the Continuing Authorities Program (CAP) Program and Per-Project Limits, dated July 16, 2008 will be revised accordingly.

b. Total Project Costs for Specifically Authorized Projects. Authorization of an increase in the total cost of a water resources development project affects the

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calculation of the maximum cost of a project pursuant to section 902 of WRDA 1986, as amended. For those projects with an executed project partnership agreement where Congress has authorized an increase in the total cost of the project, the project partnership agreement will be amended to reflect the changes to all costs shown in the METHOD OF PAYMENT Article and the change in the maximum cost of the project in the SECTION 902 MAXIMUM COST OF PROJECT Article. Review and approval of an amendment for this purpose is delegated to the MSC Commander and may not be further delegated. The District Commander is authorized to execute the amendment after its approval.

3. Section 2008(b): Authorization by law of an increase of the maximum amount of Federal funds that may be allocated for a water resources development project or the total cost of a water resources development project does not change the cost sharing requirements applicable to such project.

4. Section 2008(c): Absent a specific provision of law directing different cost sharing percentages, cost sharing of water resources development projects is governed by sections 101, 102, and 103 of WRDA 1986, as amended. In particular, the estimated Federal and non-Federal costs listed in a project authorization have no substantive effect on the cost sharing responsibilities based on project purposes established in WRDA 1986, as amended. However, the total cost of a project listed in the authorization for the project has substantive effect in determining the maximum cost of the project pursuant to the application of section 902 of WRDA 1986, as amended.

Encl

Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)

WRDA 2007 LANGUAGE

SEC. 2008. REVISION OF PROJECT PARTNERSHIP AGREEMENT; COST SHARING.

(a) FEDERAL ALLOCATION.—Upon authorization by law of an increase in the maximum amount of Federal funds that may be allocated for a water resources project or an increase in the total cost of a water resources project authorized to be carried out by the Secretary, the Secretary shall enter into a revised partnership agreement for the project to take into account the change in Federal participation in the project.
(b) COST SHARING.—An increase in the maximum amount of Federal funds that may be allocated for a water resources project, or an increase in the total cost of a water resources project, authorized to be carried out by the Secretary shall not affect any cost-sharing requirement applicable to the project.
(c) COST ESTIMATES.—The estimated Federal and non-Federal costs of water resources projects authorized to be carried out by the Secretary before, on, or after the date of enactment of this Act are for informational purposes only and shall not be interpreted as affecting the cost-sharing responsibilities established by law.