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

DEC 19 2019

CECW-P (2020-01)

DIRECTOR'S POLICY MEMORANDUM FY2020

SUBJECT: Acceptance of Contributed Funds, Advanced Funds, and Accelerated Funds

1. References.

a. CECW-P Memorandum, dated Feb 11, 2015, SUBJECT: Implementation Guidance for Sections 1015 and 1023 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), Contributed Funds.

b. Assistant Secretary of the Army (Civil Works) Memorandum, dated Apr 5, 2012, SUBJECT: Implementation Guidance for Section 2003(b) of the Water Resources Development Act of 2007 – Definition of Non-Federal Interest.

c. CECW-O Memorandum, dated Feb 19, 2015, SUBJECT: Establishment of a 120-day Performance Metric for Processing Contributed Funds for Operation & Maintenance (O&M) Dredging Using a Model Contributed Funds Memorandum of Agreement.

d. CECW-MVD Memorandum, dated Jun 22, 2016, SUBJECT: Approved Model Memorandum of Agreement (MOA) for Additional Dredging If a Non-Federal Interest Pays All Costs.

e. CECW-P Memorandum, dated Sep 28, 2017, SUBJECT: Implementation Guidance for Section 1153 of the Water Resources and Development Act of 2016 (WRDA 2016) Amending Section 1024 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), Authority to Accept and Use Materials, Services, or Funds.

f. Assistant Secretary of the Army (Civil Works) Memorandum, dated Apr 12, 2019, SUBJECT: Implementation Guidance for Section 1166 of the Water Resources Development Act of 2018, Advanced Funds for Water Resources Development Projects.

g. Conference Report, House Report 105-271, accompanying the Energy and Water Development Appropriations Act, 1998 (Public Law 105-62, Oct 13, 1997).

2. Purpose. To consolidate, clarify, and update policy guidance on the acceptance and use of contributed funds, advanced funds, and accelerated funds.

3. Applicability. This memorandum is applicable to all Headquarters, USACE (HQUSACE) elements, Major Subordinate Commands (MSCs), districts, and field operating activities having Civil Works responsibilities.

4. Background. Guidance on contributed funds, advanced funds, and accelerated funds is addressed in several pieces of implementation guidance, making it difficult for the enterprise to easily identify and understand steps for the acceptance of these funds. This has led potentially to underperformance and inaccurate forecasting of performance on projects and programs. This document consolidates guidance regarding the acceptance of contributed funds, advanced funds, and accelerated funds.

5. General. Contributed funds, advanced funds, and accelerated funds are alternative financing options for the acceptance and expenditure of non-Federal funds that may expedite the delivery of water resources development projects. Contributed funds, advanced funds, and accelerated funds must be voluntarily offered and provided. In particular, Section 103(n) of the Water Resources Development Act (WRDA) of 1986, as amended (33 U.S.C. 2213(n)) prohibits USACE from soliciting funds from non-Federal interests in excess of the statutorily established cost share or from conditioning Federal participation in construction of the project on the provision of such excess funds.[1]

6. Contributed Funds. Contributed funds are non-Federal funds provided that are above the statutorily required non-Federal cost share, with no credit or repayment authorized for such funds. Contributed funds are included in the shared costs of the study, design, or construction of a project, respectively, with contributed funds applied towards the Federal cost share under the particular feasibility cost sharing agreement, design agreement, or project partnership agreement. This guidance addresses contributed funds provided pursuant to the authority codified in 33 U.S.C. 701h and pursuant to Section 1024 of WRRDA 2014, as amended (33 U.S.C. 2325a). This guidance does not apply to funds provided pursuant to Section 203 of WRDA 1992 (33 U.S.C. 2325), Section 225 of WRDA 1992 (33 U.S.C. 2328), or other authorities for the acceptance and expenditure of contributed funds.

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[1] Note also that Section 1166(b) of WRDA 2018 (33 U.S.C. 701h-2) provides that the Secretary shall ensure, to the maximum extent practicable, that acceptance of these funds does not adversely affect the process or timeline for development and implementation of other water resources development projects or the process for including projects in the President's annual budget.

a. 33 U.S.C. 701h. Contributed funds provided pursuant to the authority in 33 U.S.C. 701h may be used for the study, design, construction, and operation and maintenance of Federally authorized water resources development studies and projects, including studies and projects on the inland waterways. It does not provide for the acceptance of contributed funds for environmental infrastructure assistance. While 33 U.S.C. 560 provides separate contributed funds authority related to authorized navigation projects, 33 U.S.C. 701h is a comprehensive authority covering all project purposes and will be used instead.

(1) Contributed funds provided pursuant to 33 U.S.C. 701h may be accepted from a non-Federal interest, as defined in Section 221(b) of the Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b(b)), and includes a legally constituted public body (including a Federally recognized Indian tribe) and a non-profit entity with the consent of the affected local government. Reference 1.b. provides additional guidance on non-Federal interests, and requirements related to a non-profit entity.

(2) The authority in 33 U.S.C. 701h provides for the acceptance of contributed funds to be expended "in connection with funds appropriated by the United States." To meet this requirement, in general, there are two main points at which appropriated funds must have been provided: i) initiation of the study and ii) initiation of project construction. Additional details are provided in Appendix A, at paragraph 1.a.

(3) In addition, Section 1023 of WRRDA 2014 amends Section 902 of WRDA 1986 (33 U.S.C. 2280) to provide that USACE may accept and expend contributed funds pursuant to 33 U.S.C. 701h to carry out an authorized water resources development project that has exceeded its maximum cost if the use of such funds does not increase the Federal share of the cost of the project. The maximum Federal share of the cost of the project will be identified in the Project Partnership Agreement (PPA), or the amendment to the PPA, that provides for the acceptance of the contributed funds, based on the Section 902 total project cost limit at that time.

(4) Completion of the Committee notification process is required prior to approval of an agreement involving the acceptance of contributed funds pursuant to 33 U.S.C. 701h. Details on the Committee notification process, processing of a contributed funds request, and approval of the agreement are provided in Appendix A, at paragraphs 2 and 3.

b. Section 1024 of WRRDA 2014, as amended (33 U.S.C. 2325a). Section 1024 is an alternative authority for the acceptance of contributed funds, applicable to certain limited situations. Section 1024 applies only to Federally authorized water resources

projects that are being operated and maintained by USACE. Section 1024 provides for the acceptance of contributed funds for the purpose of repairing, restoring, replacing, or maintaining a water resources project only if the District Commander determines that there is a risk of adverse impacts to the functioning of the project for its authorized purposes and that acceptance of the funds is in the public interest. Note that guidance on the acceptance of materials or services pursuant to Section 1024 is discussed in reference 1.e.

(1) Contributed funds pursuant to Section 1024 may be provided by a non-Federal public entity, a nonprofit entity, or a private entity.

(2) Advance Committee notification is not required prior to the acceptance of contributed funds pursuant to Section 1024. Instead, Section 1024 provides for reporting to the Authorization Committees in an annual report a description of how the activities undertaken, including the costs associated with the activities, and a comprehensive description of how activities are necessary for maintaining a safe and reliable water resources project. Additional details on contributed funds pursuant to Section 1024 and the reporting requirement is provided in Appendix B, starting at paragraph 2.

7. Advanced Funds. Advanced funds are non-Federal funds provided as an advance of the Federal share of the cost of construction of a Federally authorized water resources development project, with eligibility for potential repayment. Advanced funds are in addition to funds provided to meet any required non-Federal cost share. Authority to accept and expend advanced funds is codified in 33 U.S.C. 701h-1.

a. Advanced funds may be provided by a State or political subdivision thereof. As provided in 33 U.S.C. 701h-1, "State" means the several States, the District of Columbia, the commonwealths, territories, and possessions of the United States, and Indian tribes (as defined in 25 U.S.C. 5304(e)).

b. An offer to provide advanced funds must include a commitment to provide all funds to complete construction of a project or separable element thereof. Therefore, for a project for which a new start determination for Construction funding has not yet been provided, a proposal for advanced funds will be considered only if the State, or political subdivision thereof, is offering to provide all funds, covering both the Federal and non-Federal share of the total project costs required to construct an authorized water resources development project or separable element thereof. In addition, for a project for which a new start determination and Federal funding have been provided, a proposal for advanced funds will be considered only if the State, or political subdivision thereof, is

offering to provide all remaining funds, covering both the Federal and non-Federal share of such costs, to complete construction of the project, or separable element thereof. Based on this commitment to provide all funds to construct the project, for projects with PPAs executed, or amended to include the provision of advanced funds, after the date of this guidance, Federal funds, in general, will not be used for such construction and any Federal funding would be provided only after completion of construction, as repayment of the Federal share of such construction, from funding provided for reimbursements or repayments.

c. The acceptance of advanced funds does not obviate the need for a new start determination for the project before Federal funds, to include repayments of the Federal share of that construction, may be provided.

d. Note that advanced funds may not be accepted for study or design of a project.

e. Completion of the Committee notification process is required prior to the initiation of negotiations for a PPA involving advanced funds. Details on the Committee notification process, processing of the advanced funds request, and approval of the agreement are provided in Appendix C, at paragraph 2.

8. Accelerated Funds. Accelerated Funds are non-Federal funds that are provided in excess of the non-Federal proportional share based on Federal funds provided for that year but within the ultimate required non-Federal cash contribution for the applicable phase of the project. The flexibility to allow a sponsor to accelerate the provision of its cash contribution is implicit in laws providing for the provision of the non-Federal cost share during the period of the study or construction of a project. While accelerated funds is a tool that may allow work to continue pending the provision of additional Federal funds, without the provision of those additional Federal funds, work on the study or construction will not be completed. Therefore, in general, the provision of contributed funds or advanced funds, if applicable, is preferred. Credit for accelerated funds is provided only if additional Federal funding is provided for that phase of the project.

a. In general, the amount of accelerated funds that may be provided is limited to the estimated required non-Federal cash contribution for that phase of the project, i.e., study, design, or construction. Accelerated funds may be provided only after Federal funds have been provided for that phase of the project. The accelerated funds would be in excess of the amounts required to maintain an ongoing, proportional cost-share balance, but would not exceed the total non-Federal cash requirement for that phase. In other words, the amount that may be accelerated under a feasibility cost sharing agreement, design agreement, or PPA is limited to the estimated non-Federal cash requirement under that agreement.

b. No Committee notification is required for the acceptance of accelerated funds for a study. Current budget policy is to fund to completion studies that have been initiated. Accelerated funds cannot be provided for amounts above the non-Federal share of the approved amount for the study, i.e., an approved exemption is required prior to accepting funds over the $1.5 million non-Federal share of the $3 million total study cost.

c. Completion of Committee notification is required prior to the approval of an agreement involving accelerated funds for design or construction. Details on the Committee notification process, processing of an accelerated funds request, and approval of the agreement are provided in Appendix D, at paragraphs 2 and 3.

d. While, in general, the amount of accelerated funds that may be provided is limited to the estimated required non-Federal cash contribution for a specific phase of the project, there may be additional flexibility in the case of design for a project Federally authorized for construction. The applicable HQUSACE Regional Integration Team (RIT) or the points of contact for this guidance may be contacted for further information.

9. The acceptance of contributed funds, advanced funds, and accelerated funds has no effect on the requirement that the study, design, construction, and operation and maintenance of a project must be undertaken in accordance with Federal laws, regulations, and policies.

10. The authority in 33 U.S.C 701h also allows USACE, while carrying out design, construction, or maintenance of a Federal project, to undertake additional work that is related to, but not a part of the cost-shared Federal project, if a non-Federal interest pays all costs associated with such additional work. Some examples of additional work include dredging of non-Federal berthing areas, channels, and slips and the placement or disposal of sand at a site other than the least cost environmentally acceptable alternative. Additional work does not involve the acceptance of contributed funds as that term is used in this memorandum and is not subject to the requirement for Committee notification associated with the acceptance of contributed funds. The model design and project partnership agreements include provisions addressing additional work. In addition, there are Additional Work Memoranda of Agreement posted on the HQUSACE Agreements website.

11. Proponent. The points of contact for this memorandum are John Lucyshyn, HQUSACE Project Partnership Agreements Team, 202-761-4515, and Susan Nee, Senior Counsel for Civil Works, Office of the Chief Counsel, 202-761-1696. Questions regarding this guidance may be directed to them.

JAMES C. DALTON, P.E.
Director of Civil Works

Appendix A
Contributed Funds Pursuant to 33 U.S.C. 701h

1. The authority codified in 33 U.S.C. 701h allows for the acceptance and expenditure of contributed funds for the study, design, construction, and operation and maintenance of Federally authorized water resources development studies and projects, including studies and projects on the inland waterways. The authority in 33 U.S.C. 701h provides for the acceptance of contributed funds to be expended "in connection with funds appropriated by the United States."

a. General Rule. There are two main points at which appropriated funds must have been provided before contributed funds may be accepted: 1) initiation of the feasibility study with Investigations (I) or Mississippi River and Tributaries (MR&T) (I) funds; and 2) initiation of project construction with Construction (C) or MR&T (C) funds. Once there has been the initial provision of Investigations or MR&T (I) funds, contributed funds may be accepted throughout the study and design of a project. Once there has been the initial provision of Construction or MR&T (C) funds, contributed funds may be accepted throughout the construction and operation and maintenance of a project, as well as for authorized cost shared periodic nourishment and authorized cost shared future levee lifts.

b. Special Cases.

(1) For water supply storage reallocation studies, the following will apply:

(a) For studies that will be funded with Operation or Maintenance (O&M) or MR&T (Maintenance (M)) funds only, contributed funds may be accepted even if Federal funds have not been provided for the study.

(b) For studies initiated using O&M or MR&T (M) funds, after which it is determined that the study will continue on a cost shared basis using Investigations or MR&T (I) funds, Investigations or MR&T (I) funds must have been provided for the cost shared portion of the study before contributed funds may be accepted.

(c) For studies that will be funded with Investigations or MR&T (I) funds only, Investigations or MR&T (I) funds must have been provided before contributed funds may be accepted.

(2) For disposition studies of constructed projects, there is no requirement for the provision of additional Federal funds before contributed funds may be accepted.

2. Procedures for Committee Notification.

a. In response to an inquiry from a potential non-Federal interest, a district may explain generally the policies and procedures for acceptance of contributed funds and may provide a copy of an appropriate draft agreement for information. The district may not initiate negotiations until after the ASA(CW) has submitted the draft Congressional Committee notification letters to the Office of Management and Budget (OMB) for clearance.

b. To initiate the Committee notification process, the district commander must submit the following information through the MSC to the applicable RIT:

(1) Draft Committee notification letters to the Chairpersons and Ranking Members of the House and Senate Appropriation Committees, Subcommittees on Energy and Water Development; and the Senate Environment and Public Works Committee, Subcommittee on Transportation and Infrastructure and House Transportation and Infrastructure Committee, Subcommittee on Water Resources and Environment. Sample notification letters are included in the annual budget execution circular.

(2) A letter from the contributor stating the amount being contributed; its understanding that no repayment or credit of contributed funds is authorized; and its understanding that acceptance of such funds will not constitute or imply any commitment to budget or appropriate funds for the project in the future.

(3) If the contributor is a nonprofit entity, a letter from the affected local government documenting its consent of the contributor providing funds for use on the study or project.

(4) An information paper which describes: (a) project authorization history and the status of project implementation, including any existing cost share agreements and responsibilities for implementation; (b) brief summary describing that contributor qualifies as an entity that may provide contributed funds; (c) description of work to be performed with the contributed funds; (d) estimated cost of such work; (e) rationale of why accomplishment of such work is advantageous in the public interest; (f) discussion of any impact on other work in the district for which funds have been appropriated by Congress; and (g) identification of whether a model agreement is available or whether a new agreement will need to be approved.

(5) If the contributed funds are proposed for use on a water supply storage reallocation study, documentation of waiver to conduct the reallocation study from the USACE Dam Safety Officer in accordance with Chapter 24 of ER 1110-2-1156.

c. After receipt of the required information, the RIT will coordinate the draft Committee notification letters and other information within HQUSACE (at a minimum with the Office of Counsel and the applicable Business Line Manager and Account Manager). The RIT will provide the documents to the HQUSACE Future Directions Branch (CECW-IF) for transmittal, within 30 days of receipt of a complete request at HQUSACE, to the Assistant Secretary of the Army (Civil Works) (ASA(CW)) for approval, coordination with OMB and Committee notification.

3. Negotiation and Processing of Agreement. CECW-IF will notify the RIT when the ASA(CW) submits the contributed funds draft Committee notification letters to OMB for clearance. The RIT will then notify the MSC and district that the district can begin negotiations of the agreement for acceptance of contributed funds and review of the draft agreement package can be undertaken prior to completion of Committee notification. While the negotiated agreement may be submitted for review prior to completion of the Committee notification process, it may not be formally approved for execution until after completion of the Committee notification process. The RIT will notify the MSC and district when the Committee notification process has been completed.

a. If an approved model contributed funds memorandum of agreement (MOA), or a model agreement with the optional contributed funds language, will be used, the district will submit the draft agreement package to the MSC for approval by the MSC Commander. Any questions on whether the agreement is consistent with law or policy should be raised to the applicable RIT. For agreements that follow the model language, the documents to be provided with a request for approval must include: the draft agreement, identifying the model on which it is based, that has been negotiated with the contributor, with all necessary project-specific information filled in; Certificate of Legal Review signed by District Counsel specifying whether the use of the model agreement is appropriate and legally sufficient based on the facts of the particular project and contributed funds proposal; Self Certification of Financial Capability and other required Certifications; funds allocation table; and completed Agreements Checklist.

b. If there is no approved model agreement applicable to the particular contributed funds proposal, or the proposal contains substantive deviations from the model language, the district will submit the draft agreement package through the MSC to the RIT for approval by the Director of Civil Works. The package will include the documents

specified in paragraph 3.a., as well as an explanation of deviations from the applicable model and detailed rationale for such deviations.

4. Reference 1.c. establishes a 120-day performance goal for completion of actions to allow for the acceptance of contributed funds for operation and maintenance dredging when a contributed funds model is used.

Appendix B
Contributed Funds Pursuant to Section 1024 of WRRDA 2014, as amended

1. Section 1024 of WRRDA 2014, as amended (33 U.S.C. 2325a) authorizes USACE to accept and use funds contributed by a non-Federal public entity, a nonprofit entity, or a private entity for the purpose of repairing, restoring, replacing, or maintaining a water resources project operated and maintained by USACE if the District Commander determines that there is a risk of adverse impacts to the functioning of the project for the authorized purposes of the project and that acceptance of the materials, services, or funds is in the public interest. The District Commander must provide written documentation of these determinations, and this authority may not be further delegated. In addition, there may be special circumstances, such as, for example, if dam safety issues are involved, where the district should coordinate with the entire vertical team before the district commander determines whether to accept the contributed funds.

2. Procedure.

a. Prior to the acceptance of contributed funds pursuant to Section 1024, the district must develop a plan for use of the contributions. The plan must demonstrate that there is a risk of adverse impacts to the functioning of the project for its authorized purposes and that the acceptance of the contributed funds would be in the public interest. The plan must document how the contributed funds will be used to reduce the risk of impacts to the functioning of the project for its authorized purposes and help maintain a safe and reliable project. The plan will identify whether additional real property interests need to be acquired to support the work to be undertaken with the contributed funds and identify the party responsible for acquisition.

b. A template agreement for the acceptance of funds pursuant to Section 1024 is posted on the HQUSACE Agreements website. Following review and concurrence by the District Counsel that the acceptance of funds pursuant to Section 1024 is appropriate and that the negotiated agreement is acceptable, the District Commander may approve and sign the agreement. Any questions or concerns regarding the use of Section 1024 or the template agreement should be submitted through the MSC to the appropriate RIT for resolution. In addition, proposed substantive deviations to the template agreement must be submitted through the MSC to the RIT for approval by the Director of Civil Works.

c. Within 30 days of accepting contributions pursuant to Section 1024, the District Commander will submit, through the MSC Commander, to the appropriate RIT, a report

that includes a description of the activities undertaken using the contributions, including the costs associated with such activities, and a comprehensive description of how the activities were necessary for maintaining a safe and reliable water resources development project. The HQUSACE Program Integration Division (CECW-I) will consolidate the information from each RIT into a report, and by 30 October of each fiscal year, the Director of Civil Works, will transmit the draft annual report to the ASA(CW) for review and submission to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives by 1 February.

Appendix C
Advanced Funds

1. The authority to accept and expend advanced funds is codified in 33 U.S.C. 701h-1. Advanced funds are non-Federal funds provided as an advance of the Federal share of the cost of construction of an authorized water resources development project, with eligibility for potential repayment. Advanced funds are in addition to funds provided to meet any required non-Federal cost share.

a. USACE will consider an advanced funds proposal only if the non-Federal interest commits to providing all funds, covering both the Federal share and non-Federal share of total project costs, required to construct a project, or a separable element thereof. Execution of an advanced funds agreement does not take the place of, or obviate the need for, a new start determination related to Federal funding. Based on this commitment to provide all funds to construct the project, for projects with PPAs executed after the date of this guidance, Federal funds, in general, will not be used for such construction and any Federal funding would be provided only after completion of construction, as repayment of the Federal share of such construction, from funding provided for reimbursements or repayments, subject to funds being provided for such purpose.

b. Advanced funds may be provided only for the Federal share of the total cost of the project within the Section 902 limit. Funding above the Section 902 limit may be provided only as contributed funds. See paragraph 6.a.(3) of this memorandum.

2. Procedures for Committee Notification.

a. In response to an inquiry from an eligible potential non-Federal interest, a district should explain generally the policies and procedures for acceptance of advanced funds. However, negotiations of an agreement involving advanced funds may not be initiated until after completion of the Committee notification process.

b. To initiate the Committee notification process, the district commander must submit the following information through the MSC to the applicable RIT:

(1) Draft Committee notification letters to the Chairpersons and Ranking Members of the House and Senate Appropriation Committees, Subcommittees on Energy and Water Development; and the Senate Environment and Public Works Committee, Subcommittee on Transportation and Infrastructure and House Transportation and Infrastructure Committee, Subcommittee on Water Resources and

Environment. Sample notification letters are included in the annual budget execution circular.

(2) A letter from the State or political subdivision thereof stating its offer to provide all funds required to complete construction of the project or separable element thereof; the estimated amount of the cost of the work, and its acknowledgment that acceptance of such funds will not constitute or imply any commitment to budget, or appropriate Federal funds for the project in the future.

(3) A concise information paper which describes: (a) project authorization history and the status of project implementation, including any existing cost share agreements and responsibilities for implementation; (b) summary describing that the eligibility of the State or political subdivision thereof to provide advanced funds; (c) description of work to be performed with the advanced funds; (d) estimated cost of such work; (e) rationale of why accomplishment of such work is advantageous in the public interest; and (f) discussion of any impact on other work in the Corps for which funds have been appropriated by Congress.

c. After receipt of the required information, the RIT will coordinate the draft Committee notification letters and other information within HQUSACE (at a minimum with the Office of Counsel and the applicable Business Line Manager and Account Manager). The RIT will provide the documents to CECW-IF for transmittal, within 30 days of receipt of a complete request at HQUSACE, to ASA(CW) for approval, coordination with OMB and Committee notification.

3. Negotiation and Processing of Agreement.

a. Negotiation of an advanced funds agreement with the eligible non-Federal sponsor may not be initiated until completion of the Committee notification process. However, pending completion of the Committee notification process, the HQUSACE Agreements Team will be available to assist the district in developing a draft advanced funds agreement.

b. The Office of the ASA(CW) will notify HQUSACE when the Committee notification process has been completed. The RIT will then notify the MSC and District Commanders that the district can begin negotiation of the agreement with the non-Federal interest. The district will submit the negotiated draft agreement package through the MSC to the RIT for HQUSACE review, with the Director of Civil Works authorized to approve the agreement for execution. The materials provided with the request must include: the negotiated draft agreement, including all necessary project-specific information; explanation of deviations from the HQUSACE-developed draft

agreement and detailed rationale for such deviations; Certificate of Legal Review signed by District Counsel specifying whether the agreement is appropriate and legally sufficient based on the facts of the particular advanced funds proposal; non-Federal sponsor's Self Certification of Financial Capability and other required Certifications; funds allocation table; and completed PPA Checklist.

Appendix D
Accelerated Funds

1. Accelerated Funds are non-Federal funds that are provided in excess of the non-Federal proportional share based on Federal funds provided for that year but within the ultimate required non-Federal cash contribution for the applicable phase of the project. Accelerated funds may be provided only once Federal funds have been provided for that phase of the project, i.e., study, design, or construction, and is limited to the estimated required non-Federal cash contribution for that phase. The accelerated funds would be in excess of the amounts required to maintain an ongoing, proportional cost-share balance, but would not exceed the total non-Federal cash requirement for that phase. In other words, the amount that may be accelerated under a feasibility cost sharing agreement, design agreement, or PPA is limited to the non-Federal cash requirement under that agreement. Credit for accelerated funds is provided only if additional Federal funding is provided.

2. Procedure for Committee Notification.

a. In response to an inquiry from a non-Federal sponsor, a district should explain generally the policies and procedures for acceptance of accelerated funds and may provide a copy of an appropriate draft agreement for information.

b. In general, Committee notification for the acceptance of accelerated funds associated with a feasibility cost sharing agreement is not required. However, the Major Subordinate Command (MSC) should coordinate with the RIT when dealing with acceptance of accelerated funds for studies that are not included in the current fiscal year President's budget or work plan to determine if Congressional notification will be required.

c. To initiate the Committee notification process for accelerated funds for design or construction, the district commander must submit the following information through the MSC to the applicable RIT:

(1) Draft Committee notification letters to the Chairpersons and Ranking Members of the House and Senate Appropriation Committees, Subcommittees on Energy and Water Development; and the Senate Environment and Public Works Committee, Subcommittee on Transportation and Infrastructure and House Transportation and Infrastructure Committee, Subcommittee on Water Resources and Environment. Sample notification letters are included in the annual budget execution circular.

(2) A letter from the non-Federal sponsor stating its understanding that no repayment for accelerated funds is authorized and that credit for such funds will be provided only if additional Federal funds are provided and its understanding that acceptance of such funds will not constitute or imply any commitment to budget or appropriate funds for the project in the future.

(3) An information paper which describes: (a) project authorization history and the status of project implementation, including any existing cost share agreements and responsibilities for implementation; (b) description of work to be performed with the accelerated funds; (c) estimated cost of such work; (d) rationale of why accepting such funds is advantageous in the public interest; (e) discussion of any impact on other work in the district for which funds have been appropriated by Congress; and (f) identification of what model agreement and optional language will be used.

c. After receipt of the required information, the RIT will coordinate the draft Committee notification letters and other information within HQUSACE (at a minimum with the Office of Counsel and the applicable Business Line Manager and Account Manager). The RIT will provide the documents to CECW-IF for transmittal, within 30 days of receipt of a complete request at HQUSACE, to ASA(CW) for approval, coordination with OMB and Committee notification.

3. Negotiation and Processing of Agreement. CECW-IF will notify the RIT when the ASA(CW) submits the accelerated funds draft Committee notification letters to OMB for clearance. The RIT will then notify the MSC and district that the district can begin negotiations of the agreement for acceptance of accelerated funds. While the negotiated agreement may be submitted for review prior to completion of the Committee notification process, it may not be formally approved for execution until after completion of the Committee notification process. The RIT will notify the MSC and district when the Committee notification process has been completed.

a. If the approved option to the model Design Agreement (DA) or PPA will be used, the district will submit the draft agreement package to the MSC for approval by the MSC Commander consistent with the instruction for the model agreement. This process will be followed for a feasibility cost sharing agreement with accelerated funds as well. For any DA or PPA that contains substantive deviations from the model language, the district will follow the submission procedures and requirements noted in paragraph b. below.

b. If there is no model agreement applicable to the particular accelerated funds, the district will submit the draft agreement package through the MSC to the RIT for approval

by the Director of Civil Works. The materials provided with the request must include: the negotiated draft agreement, including all necessary project-specific information; explanation of deviations from the applicable model and detailed rationale for such deviations; Certificate of Legal Review signed by District Counsel specifying whether the agreement is appropriate and legally sufficient based on the facts of the particular proposal; Non-Federal Sponsor's Self Certification of Financial capability and other required Certificates; funds allocation table; and completed Agreement Checklist.

Appendix E – Summary Matrix

	CONTRIBUTED FUNDS (33 USC 701h) Non-Federal funds provided in excess of required cost share, with no repayment or credit	**CONTRIBUTED FUNDS (Section 1024 of WRRDA 2014; 33 USC 2325a)** Alternative authority to provide contributed funds to repair, replace, restore, or maintain a project for which Corps has O&M responsibility, with no repayment or credit	**ADVANCED FUNDS (33 USC 701h-1)** Non-Federal funds provided as an advance of the Federal share, with the potential for repayment	**ACCELERATED FUNDS** Non-Federal funds provided out of proportion with Federal funds but within the ultimate non-Federal cash contribution for that phase, with credit only if additional Federal funds are provided
STUDY	Yes, if study is authorized and Federal funds have been provided for the study	N/A	No	Yes, if Federal funds have been provided for the study
Congressional Notification	Yes[1]		N/A	No
DESIGN	Yes, if Federal funds have been provided for study or design	N/A	No	Yes, if Federal funds have been provided for design
Congressional Notification	Yes[1]		N/A	Yes[1]
CONSTRUCTION	Yes, if project is authorized and Federal funds have been provided for construction	N/A	Yes, if project is authorized for construction and with a commitment to provide all funds required to complete construction	Yes, if Federal funds have been provided for construction
Congressional Notification	Yes[1]		Yes[2]	Yes[1]
OPERATION & MAINTENANCE	Yes	Yes[3]	N/A[5]	N/A[5]
Congressional Notification	Yes[1]	No[4]		

[1] The district may not initiate negotiations until after the ASA(CW) has submitted the draft Congressional Committee notification letters to OMB for clearance. The negotiated agreement may not be formally approved for execution until after completion of the Committee notification process.
[2] Negotiations of an agreement involving advanced funds may not be initiated until after completion of the Committee notification process.
[3] The District Commander must determine that there is a risk of adverse impacts to the functioning of the project for its authorized purposes and acceptance of the funds is in the public interest.
[4] Advance notification not required but annual report to the Authorization Committees required.
[5] This has not come up for O&M, which, for other than for navigation projects, typically is a 100% non-Federal responsibility.