



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
441 G STREET NW  
WASHINGTON DC 20314-1000

CECW-P

3 December 2020

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Updated Section 571 Environmental Infrastructure Assistance Program Model Agreements and Delegation of Approval and Execution Authority

1. This memorandum transmits the updated model agreements for providing assistance for non-federal water-related environmental infrastructure or resource protection and development projects in Central West Virginia when the work is being performed by the non-federal sponsor under Section 571 of the Water Resources Development Act of 1999 (Public Law 106-53), as amended.
2. Work covered by a model agreement must be scoped so that federal funds provided for the project are sufficient to cover all U.S. Army Corps of Engineers (USACE) costs and reimbursements under the agreement.
3. Enclosed are two model agreements. One is for the provision of design assistance and the other is for the provision of design and construction assistance. Any previous versions of the model agreements for Section 571 should no longer be used. The updated model agreements are also available on the Headquarters USACE Project Partnership Agreements website.
4. The model agreement for design and construction assistance provides for the crediting of the value of real property interests acquired by the non-federal sponsor from private owners after the effective date of the agreement.
5. The responsibility for review and approval of a Section 571 agreement that does not deviate from the approved models is delegated to the Division Commander. This authority may not be further delegated. Division Counsel concurrence that the agreement does not deviate from the subject model, and is appropriate for use for the project, is required prior to approval.
6. The Division Commander also is delegated authority to approve non-substantive deviations to the model agreements. This authority may not be further delegated. Division Counsel concurrence that a deviation is non-substantive and recommendation that the deviation be approved is required prior to approval by the Division Commander. Where there is a question whether a deviation is substantive, the Headquarters Agreements Team is available for consultation. An agreement with substantive deviations, including deviations involving policy issues, unique circumstances, or controversial matters, must be forwarded for MSC review and then transmitted with the

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Division Commander's recommendations to the relevant Regional Integration Team for review and approval by the Director of Civil Works.

7. The District Commander is authorized to execute the agreement after its approval.

8. Any questions may be directed to Jeff Lin, Headquarters USACE Agreements Team, at 202-761-5220.



ALVIN B. LEE  
Director of Civil Works

Encls

DISTRIBUTION:  
COMMANDERS, REGIONAL BUSINESS AND PROGRAMS DIRECTORS,  
GREAT LAKES AND OHIO RIVER DIVISION, CELRD  
NORTH ATLANTIC DIVISION, CENAD

# CENTRAL WEST VIRGINIA ENVIRONMENTAL INFRASTRUCTURE AND RESOURCE PROTECTION AND DEVELOPMENT PROGRAM

## PROGRAM IMPLEMENTATION GUIDANCE

1. **PROGRAM OBJECTIVE.** The primary objective of this program is to provide design and construction assistance to non-Federal interests for carrying out water-related environmental infrastructure and resource protection and development projects in a 20-county area in the central part of the State of West Virginia. Projects may include wastewater treatment and related facilities, water supply and related facilities, and surface water resource protection and development. The program shall be known as the "Central West Virginia Environmental Infrastructure and Resource Protection and Development Program" and/or the "Section 571 Program".

2. **AUTHORITY.** The Central West Virginia Environmental Infrastructure and Resource Protection and Development Program was authorized by Section 571 of the Water Resources Development Act (WRDA) of 1999 (Public Law 106-53, 113 STAT 371). The language of Section 571 is provided at Attachment 1.

3. **APPROPRIATIONS AND USE OF FUNDS.**

a. **General.** The cumulative Federal financial obligations under this program will not exceed the lesser of the amount authorized to be appropriated or actual appropriations. Assistance that involves credits or reimbursements to non-Federal interests is subject to the requirements of Section 102 of the Energy and Water Development Appropriations Acts, 2000, Public Law 106-60.

b. **Fiscal Year 2001.** The Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year (FY) 2001 (P.L.106-377, October 27, 2000) included funds totaling \$1,500,000 for the Corps of Engineers to initiate the program. Congress did not provide any direction for use of the appropriated funds.

As agreed during the process for implementing FY 2001 congressional adds, \$150,000 will be used to produce a Program Management Plan (PgMP) at 100 percent Federal cost. The PgMP will define the scope of the problem, prioritize potential projects, and establish policies and procedures for project development and implementation. Headquarters, USACE will issue program implementation guidance and draft Project Cooperation Agreements (PCAs). Remaining funds will be carried over to FY 2002 for execution of PCA's and implementation of identified projects at 75 percent Federal and 25 percent non-Federal cost sharing.

c. **Fiscal Year 2002.** The Energy and Water Development Appropriations Act for Fiscal Year 2002 (P.L.107-66, 12 November 2001) included \$3,000,000 for the Section 571 program. Congress did not provide any direction for use of the appropriated funds.

The plan for FY 2002 provides for implementing the PgMP and executing agreements for selected design and construction assistance projects within the funds available. Approved model agreements and guidance on the review, approval, and execution of project-specific agreements will be provided by Headquarters. Until model agreements and guidance are provided by Headquarters, all draft negotiated agreements for specific projects will be submitted to Headquarters for review and approval by the ASA(CW).

#### 4. **PROGRAM AND PROJECT MANAGEMENT.**

a. **Program Management Activities.** USACE activities necessary to effectively manage the implementation of the Section 571 program include the preparation of a Program Management Plan, program management, and reporting.

(1) **Program Management Plan.** The purpose of the Program Management Plan (PgMP) is to establish the framework for implementation of projects under the authority of Section 571 of the WRDA of 1999. Development of the PgMP will involve coordination with other Federal, State, regional, and local agencies and a review of existing information to identify the type and magnitude of environmental infrastructure and resource problems in the study area and to develop a list of potential design and construction assistance projects. The PgMP will establish the procedures for nomination of projects and criteria for prioritization and selection of specific projects for implementation. Prioritization criteria should be based on appropriate factors such as the benefits of the project (e.g.; number of persons served, significance of the affected resources), economic and environmental conditions in the project area, relationship of the project to Federal and State compliance requirements, and readiness of the project. The PgMP will be updated over the life of the program as necessary. A copy of the PgMP and future updates will be provided to Headquarters (CECW-PM) for information.

(2) **Program Management.** Program management activities are those actions leading up to the negotiation of design and construction agreements for specific projects. Program management involves coordination with non-Federal interests to identify (i.e., nominate) specific projects, and review and selection of projects for development of negotiated agreements and supporting documentation. Project nomination, review, and selection will follow the procedures established in the PgMP. Projects selected in any fiscal year are subject to the availability of funds and should reflect any direction received from Congress via the Appropriations Committees.

(3) **Reporting.** Reporting requirements for the Section 571 program are described in paragraph 7 of this document.

(4). Funding. Funding for USACE program management activities will be within available Federal appropriations for the Section 571 program and will be at 100 percent Federal expense (i.e.; not subject to cost sharing).

b. **Project Management Activities**. USACE project management activities are those actions necessary to develop supporting documentation and to negotiate, execute, and carry out the terms of agreements for specific Section 571 design and construction assistance projects. All USACE project management costs shall be included in the total project cost that is subject to cost sharing.

5. **APPLICABLE POLICY**. Design and construction assistance projects implemented under the Section 571 Program will be developed consistent with the following requirements:

a. **Project Purposes**. Section 571 authorizes Federal assistance for projects for wastewater treatment and related facilities, water supply and related facilities, and surface water resource protection and development. Projects solely for the purpose of removing or remediating contamination related to any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. Sections 9601-9675] are not eligible for Federal assistance.

b. **Public Ownership**. Design and construction assistance may be provided only for projects that are owned by public entities. A public entity is one that is legally constituted with full authority and capability to perform the terms of a project cooperation agreement and to pay damages, if necessary, in the event of failure to perform.

c. **Cost Sharing**. Federal assistance for design and construction of Section 571 projects may be in the form of grants or reimbursements. The non-Federal sponsor will contribute 25 percent of the total design cost or the total project construction cost. The non-Federal sponsor shall receive credit for the reasonable costs of design work completed prior to entering into an agreement with the Government. The value of credit afforded to non-Federal interests for prior design work shall not exceed 6 percent of total project construction costs. The non-Federal sponsor shall receive credit for interest and other associated financing costs incurred as a result of a delay in reimbursement of the Federal share of the design or construction assistance project (see paragraph 5.c.(2)). The non-Federal sponsor is responsible for providing all lands, easements, rights-of-way, and relocations (LERR) required for the project and for obtaining any necessary permits. The non-Federal sponsor shall receive credit for the value of such LERR's and the cost of obtaining permits toward its share of project costs, but not to exceed 25 percent of the total costs of the project. The non-Federal sponsor will be responsible for 100 percent of the operation, maintenance, repair, rehabilitation, and replacement costs associated with a completed construction project.

(1) Grants. Non-Federal sponsors may elect to receive Federal assistance for design and construction of projects under the Section 571 program in the form of a grant. The model agreements for providing design and construction assistance under the Section 571 program will not be used for the issuance of grants. If a non-Federal sponsor desires a grant

under the Section 571 program, Districts shall follow the existing policies and procedures contained in *OMB Circular A-102*, entitled, "Grants and Cooperative Agreements with State and Local Governments" and the Department of Defense Grants Regulations (DOD-GRS) Additional information about *OMB Circular A-102* and its applications can be obtained from the Office of Federal Financial Management, Office of Management and Budget, Room 6025, New Executive Office Building, Washington, D.C. 20532, telephone (202) 395-3993.

(2) Reimbursements. Subject to the availability of Federal funding, the requirements of Section 102 of the Energy and Water Development Appropriations Act for Fiscal Year 2000 (see paragraph 5.c.(4)), and execution of an agreement between the non-Federal sponsor and the Government, the non-Federal sponsor will be reimbursed for the Federal share of previous design, future design, or future construction work performed by the non-Federal sponsor, to the extent the credited value of the non-Federal sponsor's total contributions to the project exceed its required cost share. Creditable prior design is limited to work specifically for the project, separable element(s), or functional portion(s) for which assistance is being provided. Reimbursement is not authorized for construction initiated prior to the execution of an agreement between the Corps and the non-Federal sponsor. The amount of the credit to be afforded for non-Federal work shall be determined as discussed below and shall be presented in the Project Management Plan that supports the assistance agreement. The Government will process reimbursement payments based on proper invoices submitted by the non-Federal sponsor. If there are unforeseen delays in making reimbursement, reasonable interest and financing charges will be credited to the non-Federal sponsor by the Government in accordance with the provisions of the Prompt Payment Act.

(3) Amount of Credit for Non-Federal Work. The amount of credit to be afforded to the non-Federal sponsor for design and construction work shall be based on the reasonable, allowable, allocable actual costs incurred by the non-Federal sponsor in completing the work. If design costs are expressed as fixed costs plus a percentage of construction, these costs shall be renegotiated and the amount of credit shall be limited to the reasonable cost of completing design. In no case will the amount of credit afforded for prior design work exceed 6 percent of total project construction costs. Costs to investigate and document the presence of hazardous substances are eligible for credit. Costs to remove or remediate CERCLA regulated substances are a non-Federal responsibility and are not creditable.

(4) Limits on Credit and Reimbursements. Assistance provided under Section 571 that involves credits or reimbursements to non-Federal interests is subject to the requirements of Section 102 of the Energy and Water Development Appropriations Act for Fiscal Year 2000. In accordance with Headquarters guidance (Memorandum, CECW-B/CECW-A, 30 May 2000, subject: Implementation of Section 102 of the Energy and Water Development Appropriations Act, 2000, Public Law 106-60), the total amount of credits or reimbursements to non-Federal interests under the Section 571 program may not exceed \$10,000,000 per fiscal year and the total amount of credits or reimbursements to non-Federal interests for all applicable USACE activities may not exceed \$50,000,000 per fiscal year. Procedures for reporting and managing all USACE projects subject to Section 102 will be established by Headquarters (CECW-B).

(5) Voluntary Contributions. If, subsequent to execution of an agreement for partial cost-reimbursement of design or construction work performed by non-Federal interests, USACE fails to receive sufficient appropriations to meet its share of total costs, the non-Federal sponsor may terminate the agreement, suspend work until additional Federal funds are appropriated, or continue work with its own funds. If the non-Federal sponsor elects to continue work with its own funds, these funds will be considered a voluntary contribution to the project for which the non-Federal sponsor will not receive any credit or reimbursement. Prior to continuation of work with contributed funds, USACE must notify Congress. Notification procedures are described in Headquarters Section 102 guidance.

(6) Betterments. Betterments are defined as a change in the design or construction of an element of the project resulting from the application of standards that the Government determines exceed those that the Government would otherwise apply for accomplishing the design or construction of that element. The non-Federal sponsor is responsible for all costs due to betterments, including costs associated with obtaining permits therefor, and shall pay all such costs without reimbursement by the Government.

(7) Use of Federal Funds. If non-Federal interests used, or plan to use, funds from another Federal agency to perform work for which Federal assistance under Section 571 is proposed, the non-Federal interest must first obtain a letter from the Federal granting agency verifying that the use of such funds toward the non-Federal share of the project is expressly authorized by statute.

**d. Scope of Design.** Project scope shall be determined during the design phase. The scope of design investigations to be conducted will be determined jointly by the Corps and the non-Federal sponsor to include sufficient engineering, economic, environmental, and institutional analyses and public involvement activities necessary to implement the project in compliance with applicable Federal and state laws. Districts are encouraged to use private sources for any necessary design or engineering assistance or related services associated with this program.

(1) Engineering Analysis.

(a) Projects should utilize readily available technology and industry-accepted design and construction practices.

(b) 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.

(c) Corps civil works cost estimating requirements, defined in ER 1110-2-1302 (Civil Works Cost Engineering), will not be applied to projects where the design and cost estimate has been substantially completed by others.

(2) Economic Analysis.

(a) Life-cycle costs will be considered to identify the most cost-effective solution to address the community's environmental infrastructure needs where project design has not been previously accomplished by non-Federal interests.

(b) Market interest rates and inflation factors which are appropriate and relevant to the study area will be used for evaluating and comparing alternatives.

(3) Environmental Compliance. Sufficient analysis, coordination, and documentation shall be accomplished to comply with applicable Federal environmental laws, statutes, and Executive Orders and to provide a basis for obtaining the necessary permits and licenses for project implementation. Compliance with the National Environmental Policy Act (NEPA) of 1969 requires the development and coordination of an Environmental Assessment and Finding of No Significant Impact or an Environmental Impact Statement and Record of Decision, as appropriate. Available environmental analysis prepared by non-Federal interests to meet Federal and state loan and grant and permitting requirements should be used to the extent possible by USACE to meet NEPA requirements. The non-Federal sponsor is responsible for obtaining all necessary permits and licenses.

(4) Institutional Analysis. Each non-Federal sponsor must prepare a financing plan, evidencing its ability to assure financing of the project commensurate with the Federal commitment and the district shall prepare an assessment of the non-Federal sponsor's financial capability consistent with the principles established in ER 1105-2-100, Appendix D, paragraph D-5. The non-Federal sponsor is also responsible for establishing the legal and institutional structures necessary to ensure the effective long-term operation of the project.

e. **Project Scope.** Experience with other regional environmental infrastructure assistance programs reveals that, for some projects, non-Federal interests have already secured most of the funding for the project and are seeking Federal assistance for the remaining amount which constitutes less than 75 percent of the total project costs. In such cases, optional contributed funds language must be included in the assistance agreement and congressional notification is required prior to negotiating the agreement with the non-Federal sponsor. Alternatively, the scope of the project for which Federal assistance is to be provided under Section 571 may be defined as a separable element(s) or functional portion(s) of a larger project such that the amount of Federal assistance shall be 75 percent of the total Section 571 project costs.

## 6. PROCEDURES.

a. **Model Agreements.** Model agreements will be used as a basis for developing the project-specific agreements to be executed by the Government and the sponsor prior to providing assistance under this program. Headquarters will develop and submit model agreements and recommendations concerning delegation of execution authority to the Assistant Secretary of the Army (Civil Works) (ASA(CW)) for approval. Since the majority of environmental infrastructure assistance program projects will likely involve reimbursement of the Federal share of work performed by non-Federal interests, model agreements will initially be developed for partial cost-reimbursement of design, construction, and combined design and construction performed by non-Federal interests. Additional model agreements will be developed as needed. Approved model agreements and guidance on the review, approval, and execution of project-specific agreements will be provided by Headquarters under separate cover. Until model agreements and guidance are provided by Headquarters, all draft negotiated agreements for specific projects will be submitted to Headquarters for review and approval by the ASA(CW). Documentation necessary to support the review and approval of project-specific agreements includes a Project Management Plan, assessment of the non-Federal sponsor's financial capability, certification of legal review, and a checklist.

### b. **Design Phase.**

(1) Design Agreement. Initiation of the design phase for a specific project is contingent upon availability of funds and execution of a design agreement. Each design agreement will be supported by a letter report, a Project Management Plan, a non-Federal financing plan, and the District's assessment of the non-Federal sponsor's financial capability. The letter report should contain the information described in Attachment 2. The Division Commander is authorized to approve all documents supporting a design agreement and may delegate this authority to the District Commander. The design agreement and scope of work will be negotiated with the non-Federal sponsor. Until model agreements and guidance are provided by Headquarters, all draft negotiated agreements for specific projects will be submitted to Headquarters for review and approval by the ASA(CW).

(2) Products and Approvals. Whether the design phase of the project takes the form of a grant, design assistance, or partial cost-reimbursement for design performed by non-Federal interests, the end product should be a set of plans and specifications suitable for the advertisement and award of a construction contract for the identified project. The design phase will also produce documentation of the engineering, economic, environmental, and institutional analyses and public involvement activities necessary to implement the project. Requirements include preparation of either an Environmental Assessment and Finding of No Significant Impact or an Environmental Impact Statement and Record of Decision for NEPA compliance and obtaining the appropriate permits required to initiate project construction. Districts are responsible for assuring the technical and legal adequacy of all design phase products. The Division Commander is authorized to approve all design phase products and may delegate this authority to the District Commander.

(3) Cost Accounting. Federal costs for reviewing existing design performed by non-Federal interests, developing supporting documentation, and negotiating the design agreement will be included in the total project design cost that is subject to cost sharing. All Federal and non-Federal costs incurred subsequent to execution of the agreement, except the cost of betterments and dispute resolution, will be included in total project design costs and subject to cost sharing, crediting, and reimbursement under the terms of the design agreement.

**c. Construction Phase.**

(1) Construction Agreements. Initiation of the construction phase for a specific project is contingent upon availability of funds and execution of a construction agreement. Each construction agreement will be supported by an approved set of plans and specifications, a Project Management Plan, a non-Federal financing plan, and the District's assessment of the non-Federal sponsor's financial capability. The construction agreement may not be executed until NEPA compliance has been completed by USACE by preparation of either an Environmental Assessment and Finding of No Significant Impact or an Environmental Impact Statement and Record of Decision. Certain permits required for project construction (e.g., water quality certification) must be obtained by the non-Federal sponsor prior to execution of the construction agreement. The Division Commander is authorized to approve all documents supporting a construction agreement and may delegate this authority to the District Commander. The construction agreement and scope of work will be negotiated with the non-Federal sponsor. Until model agreements and guidance are provided by Headquarters, all draft negotiated agreements for specific projects will be submitted to Headquarters for review and approval by the ASA(CW).

(2) Products and Approvals. For construction phase work for which the non-Federal sponsor will be responsible, the non-Federal sponsor is responsible for development and approval of all products pertaining to the performance of work (whether performed under contract or by non-Federal sponsor personnel) and will provide the Government an opportunity to review such products. The non-Federal sponsor shall also prepare and furnish to the Government for review a proposed Operation, Maintenance, Repair, Rehabilitation and Replacement (OMRR&R) Manual. When the Government will be responsible for construction, the Government is responsible for development and approval of all contract products and the OMRR&R Manual and will provide the non-Federal sponsor an opportunity to review such products. The Division Commander is authorized to approve all construction phase products and may delegate this authority to the District Commander.

(3) Cost Accounting. Federal costs for reviewing existing design performed by non-Federal interests, developing supporting documentation, and negotiating the construction agreement will be included in the total project construction cost that is subject to cost sharing. All Federal and non-Federal costs incurred subsequent to execution of the agreement, except the cost of betterments and dispute resolution, will be included in total project costs and subject to cost sharing, crediting, and reimbursement under the terms of the construction agreement.

**d. Combined Design and Construction Phase Agreements.** Where the District and non-Federal sponsor propose to perform the design and construction phases under one combined

agreement, the District will follow the approved model for design and construction performed by non-Federal interests as well as a combination of procedures set forth in paragraphs b. and c., above. The combined design and construction agreement may be executed prior to completing NEPA compliance and water quality certification, if required, but the construction phase may not begin until these requirements are satisfied. Until model agreements and guidance are provided by Headquarters, all draft negotiated agreements for specific projects will be submitted to Headquarters for review and approval by the ASA(CW).

## 7. REPORTING REQUIREMENTS.

a. **Semi-Annual Status Reports.** CELRD will submit semi-annual status reports to Headquarters (CECW-B) summarizing program accomplishments as of the mid-point (31 March) and end (30 September) of the fiscal year. The status report will include a narrative description of program management activities (e.g., coordination, PgMP development, a narrative description of each project, and a summary display of the schedule and allocation of Federal and non-Federal funds to program management and project-specific activities (see Attachment 3).

b. **Report to Congress.** Section 571(g) of WRDA 1999 directs the ASA(CW) to transmit to Congress by 31 December 2001 a report on the results of the program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis. Since Section 571(h) authorized appropriations beginning in FY 2000, but funds were not received until FY 2001, the deadline established by Congress does not allow sufficient time to evaluate the program and make meaningful recommendations. In order to gain sufficient experience with the program, the report will be submitted to Congress by 31 December 2003. The report should be submitted to reach Headquarters no later than 15 November 2003. Report format and content should be similar to the report prepared for the Southern West Virginia environmental assistance program authorized by Section 340 of WRDA 1992, as amended.

### Attachments

1. Section 571 WRDA 1999
2. Letter Report Content
3. Semi-annual status report display

## **Attachment 1**

### **Central West Virginia Environmental Infrastructure and Resource Protection and Development Program**

#### **Section 571 of the Water Resources Development Act of 1999 (Public Law 106-53, 113 STAT 371)**

##### **SEC. 571. CENTRAL WEST VIRGINIA.**

(a) **DEFINITION OF CENTRAL WEST VIRGINIA.**—In this section, the term “central West Virginia” means the counties of Mason, Jackson, Putnam, Kanawha, Roane, Wirt, Calhoun, Clay, Nicholas, Braxton, Gilmer, Lewis, Upshur, Randolph, Pendleton, Hardy, Hampshire, Morgan, Berkeley, and Jefferson, West Virginia.

(b) **ESTABLISHMENT OF PROGRAM.**—The Secretary may establish a pilot program to provide environmental assistance to non-Federal interests in central West Virginia.

(c) **FORM OF ASSISTANCE.**—Assistance under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in central West Virginia, including projects for wastewater treatment and related facilities, water supply and related facilities, and surface water resource protection and development.

(d) **PUBLIC OWNERSHIP REQUIREMENT.**—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) **LOCAL COOPERATION AGREEMENTS.**—

(1) **IN GENERAL.**—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) **REQUIREMENTS.**—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) **PLAN.**—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the project costs under each local cooperation agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of design work completed by the non-Federal interest before entering into a local cooperation agreement with the Secretary for a project. The credit for the design work shall not exceed 6 percent of the total construction costs of the project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project's costs.

(D) LAND, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.— The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.— Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) REPORT.—Not later than December 31, 2001, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this section, including a recommendation concerning whether the program should be implemented on a national basis.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000 for the period beginning with fiscal year 2000, to remain available until expended.

## Attachment 2

# Northeastern Minnesota Environmental Infrastructure and Resource Protection and Development Program

## Letter Report Content

**SPONSOR.** Identify the sponsor by name and location. Identify type of non-Federal entity (i.e. city, county, water district, etc.). Cite the congressional district(s) in which the project will be located. Include a map(s) depicting the location of the project area within the state.

**DESCRIPTION OF THE PROJECT.** Briefly describe type and scope of the infrastructure facility/service (e.g., waste water treatment plant, water supply treatment and/or distribution system, sludge removal). Describe the major features and size of the facility and the number of end-users by type (e.g., residential, commercial, industrial, public). Where the Federal involvement is limited to increment of a larger locally planned project, the description should include a description of the total local effort and how the proposed increment of assistance to be provided fits into the larger effort. Indicate whether assistance will be in the form of a grant, reimbursement, or design/construction work.

**FINANCIAL CAPABILITY OF SPONSOR.** Describe the financial capability of the non-Federal sponsor to meet the local cooperation requirements of the environmental infrastructure project. Provide a brief description of the financing plan for the non-Federal share of project costs.

**ENVIRONMENTAL COMPLIANCE.** Describe the environmental compliance requirements for the proposed work and the status of the compliance with these requirements.

**COST.** Indicate the cost of the proposed infrastructure assistance and the basis for the cost estimate. Where the Federal involvement is limited to an increment of a larger locally planned project, provide estimates of the cost of the larger local project and the increment of the project for which assistance will be provided. Provide an estimate of expected Federal and non-Federal costs for the proposed assistance.

**SCHEDULE.** Indicate the schedule for the proposed infrastructure assistance and if it is an increment of a larger local project how it fits within the overall project schedule.

## ATTACHMENT 3

### NORTHEASTERN MINNESOTA ENVIRONMENTAL INFRASTRUCTURE AND RESOURCE PROTECTION AND DEVELOPMENT PROGRAM

#### SEMI-ANNUAL STATUS REPORT SCHEDULE AND FUNDING SUMMARY

PROJECT NAME	NON- FEDERAL SPONSOR	PHASE / TYPE OF ASSISTANCE	SCHEDULED/ ACTUAL DATE OF AGREEMENT	SCHEDULED/ ACTUAL COMPLETION	NON- FEDERAL COST	FEDERAL COST	TOTAL COST	REMARKS
<b>SUBTOTAL PROJECT COSTS</b>								
<b>SUBTOTAL FEDERAL PROGRAM MANAGEMENT COSTS</b>								
<b>TOTAL PROGRAM COSTS</b>								