



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers
441 G Street N.W.
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

JAN -9 2009

CECW-PB

MEMORANDUM FOR Commander, South Pacific Division (CESPD-DE)

SUBJECT: Implementation Guidance for Section 5054 of the Water Resources Development Act of 2007 (WRDA 2007) – St. Helena, California

1. Section 5054 of WRDA 2007 provides discretionary authority to the Secretary to construct a project for flood control and environmental restoration in St. Helena, California, if the Secretary determines the plans and designs for the project are feasible. The project is to be constructed substantially in accordance with a plan described in a 27 June 2006 addendum to a January 2004 report prepared by the city of Helena. The cost of the project to be constructed is \$30,000,000, with an estimated Federal cost of \$19,500,000 and estimated non-Federal cost of \$10,500,000. The non-Federal interest is to be reimbursed for any work performed by them that is in excess of the required non-Federal contribution if that work is determined to be integral to the project. A copy of the Section 5054 is enclosed.
2. At such time that funds are appropriated, the San Francisco District shall prepare a Project Management Plan (PMP) to define the scope of the evaluation needed to determine that the locally preferred project is feasible, and to execute a feasibility cost-sharing agreement (FCSA) for preparation of a Feasibility Report. Up to \$100,000 may be expended at full Federal expense for development of the PMP and execution of the FCSA. The feasibility study will be cost shared at 50 percent Federal and 50 percent non-Federal expense. During conduct of the feasibility study, information and analyses from the addendum dated June 27, 2006, and the report dated January 2004, prepared by the city of St. Helena entitled "City of St. Helena Comprehensive Flood Protection Project, Final Environmental Impact Report" should be used to the maximum extent possible to avoid duplication of effort, although these materials may not receive in-kind credits since they were formulated prior to the study effort. At a minimum the feasibility study should provide a feasibility-level of analyses of the local plan in accordance with ER 1105-2-100 and other applicable guidance, demonstrate that the local plan is economically justified, is environmentally sound, includes the appropriate NEPA documentation, and complies with USACE design standards. Note that if the sponsor wants the project to be considered in the Executive budget process, additional alternatives must be formulated and the NED plan identified in accordance with Appendix H of ER 1105-2-100.
3. If the Secretary determines that the project is feasible based upon completion of the above study and if funds are appropriated for construction of the project, a Project Partnership Agreement (PPA) may be signed with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970, as amended (42 U.S.C. 1962-5b), except that

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crediting and reimbursement for in-kind design or construction work should be in accordance with section 5054(c) as implemented by paragraph 4 below, rather than section 221(a)(4) as implemented by EC 1165-2-208. The estimated total project costs of \$30,000,000 will be allocated between flood control and environmental restoration purposes and cost-shared in accordance with Section 103 of WRDA 1986, as amended. No work may be undertaken until funds are specifically appropriated for such work.

4. Per Section 5054(c), reimbursement is authorized for any non-Federal work performed by the non-Federal interest that is in excess of the required non-Federal contribution toward the total cost of the project, if the work is determined to be integral to the project. Only in-kind work determined to be integral to the project will be considered eligible for reimbursement pursuant to the provisions of the PPA, and the integral determination must be completed prior to review and approval of the PPA.

a. The integral determination is only a determination of whether the in-kind work is integral to the project. Determination of the actual value of the in-kind work and then affording the reimbursement for such amount will be accomplished by the Government in accordance with the limitations, conditions, and terms of the PPA.

b. The district should prepare a letter report that includes a description of the Federal project, a district recommendation identifying which of the proposed in-kind work items should be considered integral to the project, and for each in-kind work item proposed to be performed, a detailed description, a discussion of how it is integral to the project, an estimate of its cost, and an estimated amount of credit to be afforded.

c. The determination on whether the project is feasible, along with the integral determination will be made by the ASA(CW) prior to review and approval of the PPA.

FOR THE COMMANDER:



STEVEN L. STOCKTON, P.E.
Director of Civil Works

Encl

AUTHORIZING LANGUAGE, WRDA 2007

SEC. 5054. ST. HELENA, CALIFORNIA.

(a) IN GENERAL.—The Secretary may construct a project for flood control and environmental restoration, St. Helena, California, substantially in accordance with the plan for the St. Helena comprehensive flood protection project dated 2006 and described in the addendum dated June 27, 2006, to the report prepared by the city of St. Helena entitled “City of St. Helena Comprehensive Flood Protection Project, Final Environmental Impact Report”, and dated January 2004, if the Secretary determines that the plans and designs for the project are feasible.

(b) COST.—The total cost of the project to be constructed pursuant to subsection (a) shall be \$30,000,000, with an estimated Federal cost of \$19,500,000 and an estimated non-Federal cost of \$10,500,000.

(c) REIMBURSEMENT.—The non-Federal interest shall be reimbursed for any work performed by the non-Federal interest for the project described in subsection (a) that is in excess of the required non-Federal contribution toward the total cost of the project, if the Secretary determines that the work is integral to the project.