



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

CECW-P

APR 17 2019

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Revised Implementation Guidance for Section 1147 of the Water Resources Development Act (WRDA) of 2018, Clarification of Integral Determination

1. The Assistant Secretary of the Army, Civil Works approved on 12 April 2019 Section 1147 of WRDA 2018. The attached implementation guidance is posted for internal and external use on the U.S. Army Corps of Engineers official WRDA website:  
<http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/>.
2. Please ensure wide dissemination of this guidance. Questions regarding this implementation guidance should be directed to the Headquarters POC, Wesley Coleman, Chief, Office of Water Project Review, at (202) 761-4102 or [wesley.e.coleman@usace.army.mil](mailto:wesley.e.coleman@usace.army.mil).

A handwritten signature in blue ink, appearing to read "J. Dalton".

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

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

APR 12 2019

MEMORANDUM FOR THE COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

SUBJECT: Implementation Guidance for Section 1147 of the Water Resources Development Act of 2018, Clarification of Integral Determination

1. References

- a. Implementation Guidance for Section 6004 of the Water Resources Development Act of 2007 (WRDA 2007) -- Comprehensive Everglades Restoration Plan (CERP) Work In-Kind Credits, dated 14 February 2008.
- b. Model Pre-Partnership Credit Agreement (PPCA) for Comprehensive Everglades Restoration, approved by the Assistant Secretary of the Army (Civil Works), dated 22 October 2008.
- c. Director of Civil Works Memorandum, Model Pre-Partnership Credit Agreement for Comprehensive (PPCA) Everglades Restoration Plan (CERP), Approval and Execution Authority for Pre-Partnership Credit Agreements for In-Kind Contributions Provided or Performed by a Non-Federal Interest Prior to Execution of the Applicable Cost Sharing Agreement, dated 27 October 2008.
- d. Model Project Partnership Agreement (PPA) for Projects to be Undertaken Pursuant to the Comprehensive Everglades Restoration Plan, approved by the Assistant Secretary of the Army (Civil Works), dated 11 August 2009.

2. Section 1147 of the Water Resources Development Act of 2018 (WRDA 2018) does not expand or modify the authority of the Secretary, under Section 601 of WRDA 2000, as amended previously by Section 6004 of WRDA 2007, to provide credit toward the non-federal share for the reasonable cost of any work performed in connection with a project that is necessary for the implementation of the Plan, subject to certain conditions being met. As such, existing guidance (see references 1.a. and 1.c.) remains in effect and shall be followed. The Model PPCA for Comprehensive Everglades Restoration, approved by the Assistant Secretary of the Army for Civil Works (ASA(CW)) on 22 October 2008 (see reference 1.b.) and the Model PPA for Projects to be Undertaken Pursuant to the Comprehensive Everglades Restoration Plan, approved by the ASA(CW) on 11 August 2009 (see reference 1.d.), shall continue to be used. Section 1147 of WRDA 2018 and enclosures 1a. and 1c. are enclosed.

3. References 1.b. and 1.d. have been developed and approved under existing CERP guidance for use with CERP projects, with signature authority residing with the District

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Commander when those models are used without substantive deviation. The use of these CERP Models to execute agreements under Section 601(e)(5)(B) continues to ensure that CERP agreements will meet federal statutory requirements and will be sufficient to ensure that the work to be completed is agreed upon by the U.S. Army Corps of Engineers (Corps) or was previously agreed to by the Corps, meets adequate standards and engineering, is subject to audits and inspections, and will include any other terms necessary to ensure that the credit will be acceptable and the work will be integral to the federal project that is authorized or which will be recommended to Congress for authorization.

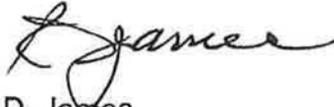
a. Pursuant to existing approved CERP statutory implementation guidance and the CERP Master Agreement, and unless otherwise specifically approved by the ASA(CW), the Model CERP PPA (reference 1.d.) shall be the only agreement used for creditable work under Section 601(e)(5)(B)(i)(II) and may not contain any substantive deviations. Similarly, unless otherwise specifically approved by the ASA(CW), the Model CERP PPCA (reference 1.b.) shall be the only agreement used for creditable work under Section 601(e)(5)(B)(i)(III) and may not contain any substantive deviations. Finally, unless otherwise specifically approved by ASA(CW), the Model CERP PPA (reference 1.d.) shall be the only agreement used for creditable work under Section 601(e)(5)(B)(i)(IV) and Section 601(e)(5)(B)(i)(V), except in the instance when the work under these sections is performed prior to a partnership agreement, in which case the Model CERP PPCA (reference 1.b.) shall be the only agreement used unless otherwise specifically approved by the ASA(CW), and may not contain any substantive deviations.

4. Section 601(e)(5)(B)(i)(V) clarifies that agreements describing non-federal work under that section may include electronic agreements. Current law recognizes the validity of electronic agreements, forms, and signatures, and the obligation of government agencies to use them where practicable, including the Government Paperwork Elimination Act, P.L. 105-277 (1998) (44 U.S.C. 3504, note) and the E-Sign Act, P.L. 106-229 (2000) (15 U.S.C. 7001, et seq.). If requested by a non-Federal interest to use an electronic agreement to execute an agreement under Section 601(e)(5)(B)(i)(V), the District Commander may use his or her electronic signature to execute a PPA (for work to be performed after PPA execution) or when applicable a PPCA (for work performed before PPA execution) under this section, using the Model CERP PPA (reference 1.d.) (or Model CERP PPCA (reference 1.b.), when applicable, for work performed before PPA execution) without substantive deviation, unless otherwise specifically approved by the ASA(CW).

5. This guidance shall be transmitted to the appropriate Corps Division and District Commanders and posted to the Corps' WRDA website within five business days of receipt (written or electronic) from this office. Guidance shall be transmitted and posted as is and without additional guidance attached.

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6. Questions regarding this implementation guidance should be directed to Gib Owen, Office of the Assistant Secretary of the Army for Civil Works, at [gib.a.owen.civ@mail.mil](mailto:gib.a.owen.civ@mail.mil) or 703-695-4641.



R.D. James  
Assistant Secretary of the Army  
(Civil Works)

Enclosure

cf: MG Scott Spellmon, Deputy Commanding General, Civil and Emergency Operations  
James Dalton, Director of Civil Works

**Water Resources Development Act of 2018, Section 1147. Clarification for Integral Determination**

Section 601(e)(5) of the Water Resources Development Act of 2000 (Public Law 106-541) is amended

- (1) In subparagraph (B)(i)
  - (A) in subclause (II), by striking “; or” and inserting a semicolon; and
  - (B) by inserting after subclause (III) the following:
    - (IV) the credit is provided for work carried out by the non-Federal sponsor in the implementation of an authorized project implementation report, and such work was defined in an agreement between the Secretary and the non-Federal sponsor prior to the execution of such work; or
    - (V) the credit is provided for any work carried out by the non-Federal sponsor, as agreed to by the District Commander and non-Federal sponsor in a written agreement (which may include an electronic agreement) prior to such work being carried out by the non-Federal sponsor.
- (2) in subparagraph (B), by amending clause (iii) to read as follows:
  - (iii) the Secretary determined that the work performed by the non-Federal sponsor
    - (I) is integral to the project; and
    - (II) was carried out in accordance with the requirements of subchapter 4 of chapter 31, and chapter 37, of title 40, United States Code.
- (3) by redesignating subparagraphs (C) through (E) as subparagraphs (D) through (F), respectively; and
- (4) by inserting after subparagraph (B) the following:
  - (C) Timing. In any case in which the Secretary approves credit under subparagraph (B) in a written agreement (which may include an electronic agreement) with the non-Federal sponsor, the Secretary shall provide such credit for work completed under an agreement that prescribes the terms and conditions for the in-kind contributions.