



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 1167 of the Water Resources Development Act (WRDA) of 2018, Cost in Excess of Federal Participation Limit

1. The Assistant Secretary of the Army, Civil Works approved on 12 April 2019 Section 1167 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, Joseph Mose, Continuing Authority Program, Program Manager, Programs Integration Division, at (202) 761-4825 or [joseph.h.mose@usace.army.mil](mailto:joseph.h.mose@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 1167 of the Water Resources Development Act of 2018, Costs in Excess of Federal Participation Limit

1. Reference:  
ER 1105-2-100, Planning Guidance Notebook, Appendix F.
2. Section 1167 of the Water Resources Development Act of 2018 (WRDA 2018) amends Section 14 of the Flood Control Act of 1946 (33 U.S.C 701r), which authorizes the construction, repair, restoration, and modification of emergency streambank and shoreline protection works to prevent damage to highways, bridge approaches, and public works, churches, hospitals, schools, and other nonprofit public services, to direct that the non-Federal interest shall be responsible for any such costs that exceed the Federal participation limit of \$5,000,000. Section 1167 of WRDA 2018 and 33 U.S.C 701r are enclosed.
3. The referenced Planning Guidance Notebook provides detail on the formulation and evaluation of Continuing Authorities Program (CAP) Section 14 projects. However, Section 1167 allows projects that result in an estimated Federal cost share more costly than the Section 14 Federal participation limit to proceed with completion of the feasibility effort under the Section 14 CAP. In limited cases, and with written justification, a waiver can be requested from the Assistant Secretary of the Army for Civil Works (ASA(CW)) to allow the feasibility study to be completed in those cases where the non-Federal interest has agreed to be responsible for all study and construction costs that exceed the Federal participation limit.
4. If an increase to the project cost is determined after the Project Partnership Agreement (PPA) is executed that would result in an estimated Federal cost share in excess of the Federal participation limit, then based on the standard language in the PPA, the non-Federal interest is responsible for all costs greater than the Federal participation limit. A District Commander cannot initiate a CAP study knowing the construction costs will exceed the per project Federal cost limits established by Congress. In cases where an ASA(CW) waiver is sought, the District Commander will provide a written justification as to why the study and project should proceed under the CAP authority instead of a traditional feasibility study effort. The justification shall contain sufficient information to document the extraordinary circumstances of why the proposed project is unique and should be allowed to proceed under a waiver.

**SUBJECT: Implementation Guidance for Section 1167 of the Water Resources Development Act of 2018, Costs in Excess of Federal Participation Limit**

5. The Director of Civil Works is directed to amend Appendix F of the referenced Planning Guidance Notebook as a draft for ASA(CW) review within 90 days of issuance of this guidance.

6. 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.

7. 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 1167 - Costs in Excess of Federal Participation Limit**

Section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), as amended by this Act, is further amended by inserting “, and if such amount is not sufficient to cover the costs included in the Federal cost share for a project, as determined by the Secretary, the non-Federal interest shall be responsible for any such costs that exceed such amount” before the period at the end.

**33U.S.C. 701r**

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed \$25,000,000 per year, for the construction, repair, restoration, and modification of emergency streambank and shoreline protection works to prevent damage to highways, bridge approaches, and public works, churches, hospitals, schools, and other nonprofit public services, when in the opinion of the Chief of Engineers such work is advisable: Provided, That not more than \$5,000,000 shall be allotted for this purpose at any single locality from the appropriations for any one fiscal year”, and if such amount is not sufficient to cover the costs included in the Federal cost share for a project, as determined by the Secretary, the non-Federal interest shall be responsible for any such costs that exceed such amount.