



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

CECW-P

APR 25 2019

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Revised Implementation Guidance for Section 1157 of the Water Resources Development Act (WRDA) of 2018, U.S. Army Corps of Engineers Continuing Authorities Program

1. The Assistant Secretary of the Army, Civil Works approved on 19 April 2019 Section 1157 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, Program Manager, Continuing Authorities Program, Programs and Integration Division, at (202) 761-4825 or 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

DISTRIBUTION:
COMMANDERS, REGIONAL BUSINESS AND PROGRAMS DIRECTORS
GREAT LAKES AND OHIO RIVER DIVISION, CELRD
MISSISSIPPI VALLEY DIVISION, CEMVD
NORTH ATLANTIC DIVISION, CENAD
NORTHWESTERN DIVISION, CENWD
PACIFIC OCEAN DIVISION, CEPOD
SOUTH ATLANTIC DIVISION, CESAD
SOUTH PACIFIC DIVISION, CESP
SOUTHWESTERN DIVISION, CESWD



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

APR 19 2019

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

SUBJECT: Implementation Guidance for Section 1157 of the Water Resources Development Act of 2018, U.S. Army Corps of Engineers Continuing Authorities Program

1. Reference:

a. ER 1105-2-100, Planning Guidance Notebook, Appendix F

b. Implementation Guidance for Section 1030 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), dated 11 December 2017

2. Section 1157 of the Water Resources Development Act of 2018 (WRDA 2018) increases the programmatic limits and per project limits for certain Continuing Authorities Program (CAP) authorities and for the Tribal Partnership Program. Section 1157 is enclosed.

3. This guidance amends reference 1b for the annual programmatic limits and projects described in reference 1a.

4. Section 1157 of WRDA 2018 increases annual programmatic limits and per-project limits on federal participation as follows: Section 3(c)(1) of the Act of August 13, 1946 (33 U.S.C. 426g(c)(1)), annual program limit increases to \$37.5 million; Section 107(a) of the River and Harbor Act of 1960 (33 U.S.C. 577(a)), annual program limit increases to \$62.5 million; Section 111(c) of the River and Harbor Act of 1968 (33 U.S.C. 426i(c)), per-project limit increases to \$12.5 million; Section 204(g) of the Water Resources Development Act of 1992 (33 U.S.C. 2326(g)), annual program limit increases to \$62.5 million; Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), annual program limit increases to \$68.75 million; Section 206(f) of the Water Resources Development Act of 1996 (33 U.S.C. 2330(f)), annual program limit increases to \$62.5 million; Section 1135(h) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(h)), annual program limit increases to \$50.0 million; and Section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), annual program limit increases to \$25.0 million. The following guidance is provided on increasing the federal participation limit for these CAP projects:

Implementation Guidance for Section 1157 of the Water Resources Development Act of 2018, Corps of Engineers Continuing Authorities Program

a. The increased federal per-project limits for Section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i) to \$12,500,000 authorized in WRDA 2018 will be applied only to those Section 111 projects whose initial federal construction contract was awarded on or after October 23, 2018. Model Project Partnership Agreements (PPA) reflect the current authorized federal participation limits. Existing agreements will not be amended solely to reflect increased annual program limits. An existing PPA for a Section 111 project whose initial construction contract was awarded on or after October 23, 2018, should be amended to reflect the increased federal participation limit authorized by WRDA 2018. Review and approval of a PPA amendment for this purpose is delegated to the Major Subordinate Commands' (MSC) Commander and may not be further delegated. The District Commander is authorized to execute the amendment after its approval.

b. For Section 111 projects whose initial federal construction contract was awarded before October 23, 2018, specific approval by the Director of Civil Works (DCW) must be obtained before the per project limit may be increased. The DCW will only consider an increase to the per-project limit for projects approved for deficiency corrections and for projects where construction cost increases are for in-scope work and were caused by federal funding delays, acquisition complications, or resolution of contract disputes. The DCW will not consider requests to amend agreements where the project is fiscally completed or where the federal portion of the project costs were known to be above the federal per-project limit and the non-Federal sponsor agreed to pay those additional costs at the time the agreement was executed. Once the approval of the DCW is obtained, review and approval of an amendment for this purpose is delegated to the MSC Commander and may not be further delegated. The District Commander is authorized to execute the amendment after its approval.

5. Section 1157(i) of WRDA 2018 amends the Section 203(b)(4) of the Water Resources Development Act of 2000 (33 U.S.C. 2269) (the Tribal Partnership Program) to set the federal per-project limit for Design and Construction to \$12.5 million. If the Federal share of the cost of the project or separable element is more than \$12,500,000, the Secretary may only carry out the project or separable element only if Congress enacts a law authorizing the Secretary to carry out the project or separable element.

6. This guidance will be incorporated into ER 1105-2-100, Appendix F, within 90 days of approval of this guidance.

7. 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.

Implementation Guidance for Section 1157 of the Water Resources Development Act of 2018, Corps of Engineers Continuing Authorities Program

8. 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 or 202 520 4867.



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 1157. Corps of Engineers Continuing Authorities Program

(a) STORM AND HURRICANE RESTORATION AND IMPACT MINIMIZATION PROGRAM. Section 3(c)(1) of the Act of August 13, 1946 (33 U.S.C. 426g(c)(1)) is amended by striking "\$30,000,000" and inserting "\$37,500,000."

(b) SMALL RIVER AND HARBOR IMPROVEMENT PROJECTS. Section 107(a) of the River and Harbor Act of 1960 (33 U.S.C. 577(a)) is amended by striking "\$50,000,000" and inserting "\$62,500,000."

(c) SHORE DAMAGE PREVENTION OR MITIGATION. Section 111(c) of the River and Harbor Act of 1968 (33 U.S.C. 426i(c)) is amended by striking "\$10,000,000" and inserting "\$12,500,000."

(d) REGIONAL SEDIMENT MANAGEMENT. Section 204(g) of the Water Resources Development Act of 1992 (33 U.S.C. 2326(g)) is amended in the first sentence by striking "\$50,000,000" and inserting "\$62,500,000."

(e) SMALL FLOOD CONTROL PROJECTS. Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) is amended in the first sentence by striking "\$55,000,000" and inserting "\$68,750,000."

(f) AQUATIC ECOSYSTEM RESTORATION. Section 206(f) of the Water Resources Development Act of 1996 (as redesignated by section 1149) is amended by striking "\$50,000,000" and inserting "\$62,500,000."

(g) PROJECT MODIFICATIONS FOR IMPROVEMENT OF ENVIRONMENT. Section 1135(h) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(h)) is amended by striking "\$40,000,000" and inserting "\$50,000,000."

(h) EMERGENCY STREAMBANK AND SHORELINE PROTECTION. Section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r) is amended by striking "\$20,000,000" and inserting "\$25,000,000."

(i) TRIBAL PARTNERSHIP PROGRAM. Section 203(b)(4) of the Water Resources Development Act of 2000 (33 U.S.C. 2269) is amended to read as follows:

(4) DESIGN AND CONSTRUCTION.

(A) IN GENERAL. The Secretary may carry out the design and construction of a water resources development project, or separable element of a project, described in paragraph (1) that the Secretary determines is feasible if the Federal share of the cost of the project or separable element is not more than \$12,500,000.

(B) SPECIFIC AUTHORIZATION. If the Federal share of the cost of the project or separable element described in subparagraph (A) is more than \$12,500,000, the Secretary may only carry out the project or separable element if Congress enacts a law authorizing the Secretary to carry out the project or separable element.