



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 1159 of the Water Resources Development Act (WRDA) of 2018, Regional Coalitions and Higher Education

1. The Assistant Secretary of the Army, Civil Works approved on 18 April 2019 Section 1159 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, Ada Benavides, Senior Policy Advisor, Planning and Policy Division, at (202) 761-0415 or ada.benvides@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
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APR 18 2019

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

SUBJECT: Implementation Guidance for Section 1159 of the Water Resources and Development Act of 2018, Regional Coalitions and Higher Education

1. References.

a. Implementation Guidance for Section 1128 of the Water Resources Development Act of 2016 (WRDA 2016), Multistate Activities, dated 28 September 2017

b. Implementation Guidance for Section 3015 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), Planning Assistance to States, dated 13 June 2016.

2. Section 1159 of the Water Resources Development Act of 2018 (WRDA 2018) amends Section 22(a) of the Water Resources Development Act of WRDA of 1974 (WRDA 1974) (42 U.S.C. 1962d-16(a)), to authorize regional coalitions of governmental entities to participate in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins, watersheds, or ecosystems located within the boundaries of such State, interest, or entity. Additionally, Section 1159 amends Section 22(a) to authorize the Secretary to work with an institution of higher education in the preparation of comprehensive plans and in the provision of technical assistance. Section 1159 of WRDA 2018 and Section 22(a) of WRDA 1974, as amended, are enclosed.

3. District Commanders shall follow existing guidance in references 1a and 1b to partner with regional coalitions of governmental entities in the preparation of comprehensive plans, subject to the following additional requirements:

a. For purposes of this guidance, a regional coalition of governmental entities meets one of the following two definitions:

(1) A separate and distinct entity of regional scope established by a group of non-federal governmental entities through a joint powers agreement or other contractual mechanism recognized by the laws governing the participating governmental entities.

(2) A participating governmental entity empowered through a joint powers agreement or other contractual mechanism recognized by the laws governing the

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participating governmental entities to act on behalf of, and using the powers of, the participating governmental entities.

(3) The signatory entity for the regional coalition must have all powers necessary to fulfill the local cooperation requirements applicable to the Planning Assistance to States (PAS) program, include the power to enter into binding agreements with the federal government, the power to provide the required non-federal match in cash or through in-kind contributions, and the powers necessary to comply with non-discrimination requirements for federal financial assistance.

b. For a comprehensive plan within the boundaries of a single State, the regional coalition must obtain the State's consent in writing for the preparation of the comprehensive plan.

c. For a comprehensive plan spanning the boundaries of multiple States, the regional coalition must obtain each State's consent in writing for the preparation of the comprehensive plan, its cost, and the portion of the federal cost-share match that will be applied to the State's annual program limit.

4. Section 1159 of WRDA 2018 further amends Section 22(a) of WRDA 1974 to authorize the Secretary to work with an institution of higher education when preparing a comprehensive plan or providing technical assistance. District Commanders shall exercise this authority in accordance with PAS program policy and applicable federal procurement laws and regulations.

a. In accordance with paragraph G-32c(9) of Engineer Regulation 1105-2-100, District Commanders may contract out work under the PAS program when a particular task would be normally contracted out by the District for cost-effectiveness reasons, when a District has lost capability in order to respond to an emergency situation, and contracting is necessary to meet the agreed to schedule, or when a contract is necessary to meet predetermined District contracting goals.

b. Contracts with institutions of higher education must comply with all applicable procurement laws and regulations, including the Competition in Contracting Act, the Federal Acquisition Regulation (FAR), and the U.S. Army Corps of Engineers Acquisition Instruction. Section 1159 does not authorize an exception to other than full and open competition under FAR 6.302-5 (48 C.F.R. 6.302-5).

5. The Director of Civil Works will provide a draft of the updated Engineer Regulation 1105-2-100 incorporating this guidance to the Assistant Secretary of the Army for Civil Works within 90 days of issuance of this guidance for review and action.

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

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receipt (written or electronic) from this office. Guidance shall be transmitted 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 or 703-695-4641.



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

Enclosures

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

Water Resources Development Act of 2018, Section 1159 – Regional Coalition and Higher Education

Section 22(a) of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–16(a)) is amended

(1) by amending paragraph (1) to read as follows:

(1) **COMPREHENSIVE PLANS.** The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State, group of States, non-Federal interest working with a State or group of States, or regional coalition of governmental entities in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins, watersheds, or ecosystems located within the boundaries of such State, interest, or entity, including plans to comprehensively address water resources challenges, and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans; and

(2) by adding at the end the following:

(3) **INSTITUTION OF HIGHER EDUCATION.** Notwithstanding section 236 of title 10, United States Code, in carrying out this subsection, the Secretary may work with an institution of higher education, as determined appropriate by the Secretary.

Section 22(a) - Planning Assistance to States (42 U.S.C. 1962d-16(a)), as amended by Section 1159 of the Water Resources Development Act of 2018

(a) Federal and State cooperation.

(1) **Comprehensive plans.** The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State, group of States, non-Federal interest working with a State or group of States, or regional coalition of governmental entities in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins, watersheds, or ecosystems located within the boundaries of such State, interest, or entity, including plans to comprehensively address water resources challenges, and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.

(2) **Technical assistance.**

(A) **In general.** At the request of a governmental agency or non-Federal interest, the Secretary may provide technical assistance to such agency or non-Federal interest in managing water resources.

(B) **Types of assistance.** Technical assistance under this paragraph may include provision and integration of hydrologic, economic, and environmental data and analyses.

(3) **Institution of Higher Education.** Notwithstanding section 236 of title 10, United States Code, in carrying out this subsection, the Secretary may work with an institution of higher education, as determined appropriate by the Secretary.