



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

MAY 06 2019

CECW-P

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Revised Implementation Guidance for Section 1123 of the Water Resources Development Act (WRDA) of 2018, Certain Levee Improvements

1. The Assistant Secretary of the Army, Civil Works approved on 2 May 2019 Section 1123 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, Tammy Conforti, Program Manager, Levee Safety Program, at (202) 761-4649 or tammy.conforti@usace.army.mil.

A handwritten signature in black 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**

MAY -2 2019

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

SUBJECT: Implementation Guidance for Section 1123 of the Water Resources Development Act of 2018, Certain Levee Improvements

1. Section 1123 of the Water Resources Development Act of 2018 (WRDA 2018), provides the Secretary the authority, notwithstanding Section 211 of the Water Resources Development Act of 2000 (31 U.S.C. 6505 note) and, upon a written request of a local government, to provide technical services, on a reimbursable basis, to the local government to assess the reasons a federally constructed levee owned or operated by the local government is not accredited by the Federal Emergency Management Agency (FEMA). Additionally, Section 1123 provides that in cases in which a levee owned and operated by the U.S. Army Corps of Engineers (Corps) is hydraulically tied to a federally constructed levee owned and operated by a local government, the Secretary is encouraged to cooperate, to the maximum extent practicable, with the relevant local governmental entities in assessing the reason the local levee is not accredited with FEMA. Section 1123 is enclosed.
2. Because the Corps only analyzes complete levee systems and not discrete segments, Section 1123 applies only to levee systems in which all levee segments are federally constructed and owned or operated by local governments or the Corps, except non-project segments that were not originally constructed to function as a levee, such as roadway embankments. A levee segment is a discrete portion of a levee system that is operated and maintained by a single entity. For purposes of this guidance, the term "local government" refers to a local government that owns or operates a federally constructed levee.
3. The assessment used for determining the reasons for not meeting accreditation requirements for FEMA purposes will be based on Corps levee criteria consisting of a risk assessment, scaled appropriately, and assurance related to the 1 percent Annual Exceedance Probability.
4. To initiate the process, a written request to the appropriate Corps District Commander to provide an assessment of the reasons a levee system cannot be accredited by FEMA may be submitted by a local government that owns and operates a

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federally constructed levee. For a levee system with levee segments owned or operated by multiple local governments, each local government that owns or operates a levee segment within the levee system must sign the request letter or submit a separate one before the Corps will move forward with the process. In the request letter, the local governments must agree to enter into an agreement with the Corps and to fund 100 percent of the Corps' costs to perform the assessment. An example request letter is enclosed.

5. If the District Commander decides to provide technical services under this authority, the local government(s) will provide upfront the cost of developing a memorandum of agreement, the scope of work, and a cost estimate of the assessment. If the local government decides to proceed with that scope of work, it must then provide the Corps 100 percent of the cost for the assessment before the assessment will begin. Reference paragraph 6 for details of the scoping effort. The template agreement to be used will be posted on the Corps' Project Partnership Agreements website under "Agreement Templates." Review and approval of the agreement is delegated to the Major Subordinate Command (MSC) Commander and may not be further delegated. The District Commander is authorized to execute the agreement after its approval.

6. Upon receipt of funds from a local government, the District Commander will coordinate with the appropriate FEMA region and confirm that the levee system is identified as not meeting FEMA accreditation requirements, notwithstanding what is currently mapped on the FEMA Flood Insurance Rate Map. After this confirmation, the District will coordinate with the Corps' Risk Management Center to scope the requirements of the technical services. The assessment used for determining the reasons for not meeting accreditation requirements for FEMA purposes will be based on Corps criteria consisting of a risk assessment, scaled appropriately, and assurance related to the 1 percent Annual Exceedance Probability. The local government and FEMA will be included in this scoping effort. If the levee system has a levee segment operated and maintained by the Corps, the District Commander will provide the best available information for that levee segment to the local government. If additional information must be collected as part of the requested assessment, this requirement will be included as part of the scope with costs to be paid by the local government. This scoping effort will be used to develop the cost estimate, schedule, and will include, but is not limited to, the following:

- a. Evaluation of existing best available data.
- b. Identification of additional exploration, investigation, modeling or analysis needed.

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- c. Identification of further coordination and information needed related to Operation and Maintenance Plans, interior drainage analyses, and hydrologic and hydraulic modeling in the levee-impacted area.
 - d. Designation of the project delivery team, including assignment of a risk adviser and risk cadre.
7. The District Commander will provide a final assessment to the local government within 60 days of completion of the technical assessment, including technical reviews.
8. Nothing in Section 1123 affects the responsibilities of the local government to operate and maintain the levee for which an assessment is requested or obligates the Federal government to expend additional federal resources on levees operated and maintained by the Corps' Civil Works Program.
9. Major Subordinate Command Commanders and District Commanders are directed to share this guidance with local governments who own or operate a federally constructed levee in their area of responsibility.
10. 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.
11. 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)

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 1123 - Certain Levee Improvements

(a) **IN GENERAL.** Notwithstanding section 211 of the Water Resources Development Act of 2000 (31 U.S.C. 6505 note), the Secretary, at the request of a local government, is authorized to provide technical services, on a reimbursable basis, to the local government to assess the reasons a federally constructed levee owned or operated by the local government is not accredited by the Federal Emergency Management Agency.

(b) **FEDERAL LEVEES.** In carrying out this section, in a case in which a levee owned and operated by the Secretary is hydraulically tied to a levee described in subsection (a), the Secretary is encouraged to cooperate, to the maximum extent practicable, with the relevant local governmental entities in assessing the reasons the levee described in subsection (a) is not accredited.

(c) **LIMITATION.** Nothing in this section

- (1) affects the responsibilities of a local government to operate and maintain its flood control infrastructure; or
- (2) obligates the Secretary to expend additional Federal resources on levees owned and operated by the Secretary.

Sample Letter of Request for an Assessment of Reasons for Not Meeting Accreditation Requirements

(Name of District Commander)
District Commander
U.S. Army Corps of Engineer *(Name of District)*
(District Mailing Address)

Dear *(Name of District Commander)*:

This request letter is in reference to Section 1123 of the Water Resources Development Act of 2018, Certain Levee Improvements. Section 1123 provides authority for the U.S. Army Corps of Engineers (Corps) to provide an assessment of the reasons a federally constructed, but locally operated and maintained levee or levee system, is not accredited by the Federal Emergency Management Agency (FEMA). The *(name of the local government)* requests an assessment be performed by the Corps for the *(name of levee system)* located in *(name of city and state)*.

We understand that upon receipt of this letter, the District Commander will work to secure an agreement to fund the District's efforts to prepare a scope of work and a cost estimate for the assessment. If the *(name of local government)* agrees with the scope of work and cost estimate and enters into an agreement with the Corps for the assessment, we understand that we will be responsible for providing 100% of the cost of the assessment upfront.

(Insert name of point-of-contact).

(signature)