



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

JUL 19 2018

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MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Requirements for Section 22 of the Water Resources Development Act of 1974, as amended, and Non-Federal Interests

1. References:

- a. ER 1105-2-100, Planning Guidance Notebook, Appendix G.
- b. Memorandum, Subject: Implementation Guidance for Section 3015 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) - Planning Assistance to States, dated June 13, 2016.
- c. Memorandum, Subject: Implementation Guidance for Section 1128 of the Water Resources and Development Act of 2016 (WRDA 2016), Multistate Activities, dated September 28, 2017.
- d. Memorandum, Subject: Implementation Guidance for Section 2003(b) of the Water Resources Development Act of 2007 (WRDA 2007), dated 5 April 2012.

2. The purpose of this memorandum is to provide additional guidance on the provision of assistance under the Section 22 Planning Assistance to States program, including the appropriate entities with whom the U.S Army Corps of Engineers (Corps) may partner in the provision of such assistance.

3. Section 22(a)(1) of the Water Resources Development Act of 1974 (WRDA 1974), as amended (42 U.S.C. 1962d-16), authorizes the Corps to cooperate with a State, a group of States, or a non-Federal interest working with a State or group of States in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins, watersheds, or ecosystems, including plans to comprehensively address water resources challenges. A comprehensive plan may extend across State boundaries provided all States agree. The amounts allocated to Section 22(a) assistance count against the maximum of not more than \$ 5,000,000 in Federal funds that may be expended in any one year in any one State

4. In addition, Section 22(a)(2) of WRDA 1974, as amended, authorizes the Corps to provide technical assistance to a governmental agency or non-Federal interest in managing water resources, including the provision and integration of hydrologic, economic, and environmental data and analyses.

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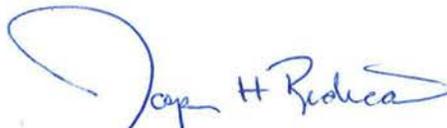
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5. Section 22 defines "State" as the several States of the United States, Indian tribes, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands. Consistent with Section 221 of the Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), a non-federal interest may include a legally constituted public body as well as a nonprofit entity, with the consent of the affected local government, that has full authority and capability to perform the terms of its agreement and to pay damages, if necessary, in the event of failure to perform. A nonprofit entity is an organization incorporated under the applicable laws of the State in which it operates as a nonprofit organization, exempt from paying Federal income taxes under Section 501 of the Internal Revenue Code (26 U.S.C. 501), and whose purposes include and are directly related to the purpose of the proposed Planning Assistance to States effort. All non-Federal signatories to the Section 22 agreement must execute a Certificate of Authority.

6. Under Section 22(a)(1), the Corps may provide assistance to a State, a group of States, or a non-Federal interest working with a State or group of States. A non-Federal public body or a nonprofit entity must provide a letter from the applicable State, or States, that identifies that the non-Federal interest is working with the State, or States, and that the proposed Section 22(a)(1) scope of work supports the comprehensive plan for the development, utilization, and conservation of water and related resources of the State, or group of States, including a citation from the existing State plan(s), or overall scope of an update to the State plan(s). In addition, a nonprofit entity must provide a letter from the affected local government consenting to the provision of Section 22(a) assistance to the nonprofit entity working with the State.

7. Under Section 22(a)(2), the Corps may provide, to a governmental agency or a non-Federal interest, technical assistance related to the management of State water resources, including the provision of hydraulic, economic, and environmental data and analysis, as described in the Implementation Guidance for Section 3015 of WRRDA 2014, reference 1.b. In the case of the provision of technical assistance to a nonprofit entity, as described in paragraph 5, the non-profit entity must provide a letter from the affected local government consenting to the provision of such technical assistance to the nonprofit entity.

8. Nothing in this memorandum changes the directive in the Implementation Guidance for Section 3015 of WRRDA 2014, reference 1.b., that the Corps will not enter into cooperative agreements to provide Federal funds to nonprofit organizations unless funds are specifically appropriated for that purpose.



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Directorate of Civil Works

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