



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

CECW-PB/CECW-NWD

09 NOV 2011

MEMORANDUM FOR Commander, Northwestern Division (CENWD-PDD)

SUBJECT: Implementation Guidance for Section 4096 of Water Resources Development Act of 2007 (WRDA 2007) – Elliott Bay Seawall, Seattle, Washington.

1. Section 4096(a) of WRDA 2007 provides that the study for rehabilitation of the Elliott Bay Seawall, Seattle, Washington being carried out under a specified Committee Resolution is modified to include a determination of the feasibility of reducing future damage to the seawall from seismic activity. In addition, Section 4096(b) provides that, in carrying out the study, the Secretary may accept contributions in excess of the non-Federal share of the cost of the study from the non-Federal interest to the extent that the Secretary determines that the contributions will facilitate completion of the study. Finally, Section 4096(c) provides that the Secretary shall credit toward the non-Federal share of the cost of any project authorized by law as a result of the study the value of contributions accepted by the Secretary under subsection (b). A copy of Section 4096 is enclosed.
2. In accordance with Section 4096(a) of WRDA 2007, damages from a seismic-caused failure of the seawall that would be prevented or reduced by a proposed project may be evaluated and included as a National Economic Development (NED) benefit. The without-project condition analysis will include documentation of the future without-project condition of the seawall and the infrastructure that the seawall protects in a seismic event. Damages prevented or reduced that can be attributed to seismic-caused seawall failure will be evaluated similarly to the damages from seawall failure due to other appropriate causative factors. This may include the analysis of damages to utilities (including electric, steam and sewer lines), transportation corridors (including Alaskan Way's shipping and freight traffic), the Alaskan Way Viaduct (SR99), Burlington Northern Railroad, and Port facilities) and related damages including the cleanup of contaminated sediments. The analysis will ensure that only damages that would be prevented or reduced under with-project conditions in a seismic event are included as benefits. The analysis will address risk and uncertainty associated with seismic events. Damages and effects will be documented by category within the NED, the Regional Economic Development, Environmental Quality, and Other Social Effects accounts.
3. Section 4096(b) of WRDA 2007 allows the Secretary to accept contributions in excess of the non-Federal share of the cost of the study to the extent that the Secretary determines that the contributions will facilitate completion of the study. The Corps may accept from the non-Federal sponsor excess study contributions, which include funds as well as in-kind contributions of services, materials, and supplies, as long as those excess study contributions are needed to complete work set out in the approved Project Management Plan.

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4. In accordance with Section 4096(c) of WRDA 2007, all excess study contributions that the Secretary has determined are acceptable pursuant to Section 4096(b) shall be credited toward the non-Federal share of the cost of any project authorized by law as a result of the study. Credit for excess study contributions may be afforded only toward the required non-Federal cash contribution under the Project Partnership Agreement for such project, and in no event will any excess study contributions result in a reimbursement.

5. Except as discussed in paragraph 2, the study will be implemented in accordance with existing policy and procedural guidance. Further, no additional work on the study may be undertaken by the Corps until additional funds are appropriated or additional funds, as discussed in paragraph 3, are provided by the non-Federal sponsor.

FOR THE COMMANDER:



THEODORE A. BROWN, P.E.
Chief, Planning and Policy Division
Directorate of Civil Works

Encl

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SEC. 4096. ELLIOTT BAY SEAWALL, SEATTLE, WASHINGTON.

(a) IN GENERAL.—The study for rehabilitation of the Elliott Bay Seawall, Seattle, Washington, being carried out under Committee Resolution 2704 of the Committee on Transportation and Infrastructure of the House of Representatives adopted September 25, 2002, is modified to include a determination of the feasibility of reducing future damage to the seawall from seismic activity.

(b) ACCEPTANCE OF CONTRIBUTIONS.—In carrying out the study, the Secretary may accept contributions in excess of the non-Federal share of the cost of the study from the non-Federal interest to the extent that the Secretary determines that the contributions will facilitate completion of the study.

(c) CREDIT.—The Secretary shall credit toward the non-Federal share of the cost of any project authorized by law as a result of the study the value of contributions accepted by the Secretary under subsection (b).