

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Policy Guidance Letter No. 5, New Start Construction Projects - Responsibility for Alteration and Relocations of Utilities Through the Line of Protection-Flood Control Projects

1. EC 1165-2-144 dated 1 June 1987, Subject: "Policy Guidance for New Start Construction Projects" discusses the policy on utility relocations for flood control projects in paragraph 7.k. Since the development of the subject EC, several situations have occurred which prompt a clarification of the guidance issued on this subject.
2. The current policy for cost sharing the relocation of utilities in flood control projects is that all costs related to such undertakings are to be a non-Federal responsibility, undertaken as part of lands, easements, rights-of-way, and relocations (LERR's). Articles II d., III c., and IV b., of the model LCA for flood control provide the specific language to be used in delineating the responsibility for utility relocations.
3. As a result of several projects that have recently reviewed in HQUSACE, the guidance provided in the EC and model LCA's is hereby modified to reflect a refinement of the policy. Henceforth, only those utilities which pass over the proposed flood control project are to be considered a local responsibility and undertaken as part of LERR's. Those utilities which pass under or through the proposed project's structure are to be considered a project cost and shared between the Federal and non-Federal sponsor, accordingly.
4. In order to implement the above guidance you should modify any flood control LCA which you are proposing to develop, by adding the following:
 - a. In Article II d., after the word "utilities" add: "(other than those portions which pass under or through the project's structure)."
 - b. In Article II d., as a last sentence, add: "Aerial facilities, supported by poles or other means, which, if damaged could not normally cause adverse effects to the project structures, will be paid for by the local sponsor."
 - c. In Article III c., after the word "utilities", add: "(other than those portions which pass under or through the project's structure)."
 - d. In Article IV b., after the word "utilities", add: "(other than those portions which pass under or through the project's structure)."
5. The incorporation of the above additions to the flood control LCA's will provide the appropriate language to implement the guidance developed to handle utility relocations.

If you have any questions or comments on the above guidance, the point of contact on this matter is Mr. Pete Luisa, CECW-RN, 202-272-0123.

FOR THE COMMANDER:

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