

Planning Guidance Letter 98-04
Limit on Work-in-Kind

CECW-PM (22 January 1998)

MEMORANDUM FOR MAJOR SUBORDINATE COMMANDS

SUBJECT: Planning Guidance Letter #98-04 - Limit on Work-in-Kind

1. I am concerned about the nature of the work proposed to be credited in section 1135 Preliminary Restoration Plans which propose that the sponsor meet some of its obligations through credit for work-in-kind. While work-in-kind after execution of the Project Cooperation Agreement is permissible for both the section 1135 and 206 programs the nature of the work-in-kind must be more carefully considered.
2. In several cases districts have proposed that the sponsor receive credit for contract management, or construction supervision and administration activities, involving contracts awarded by the U.S. Army Corps of Engineers. Many of the tasks included in the Supervision and Administration account during construction, including most of the contract management related activities, are inherent government functions which may not be contracted out or assigned to others to perform (see Federal Acquisition Regulation subpart 7.5). Therefore, I have determined that it is not appropriate to consider supervision and administration during the construction phase as creditable work-in-kind activities for the section 1135 and section 206 programs.
3. A sponsor may continue to perform construction activities with its own staff or award contracts for such work. The sponsor will be responsible for managing any contracts it awards.

FOR THE COMMANDER:

(Signed) STEVEN L. STOCKTON, P.E., Acting Chief, Planning Division,
Directorate of Civil Works