



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

27 JUL 2009

Reply to
Attention of:

CEMP-SWD/CECW-PC

MEMORANDUM FOR COMMANDER, Southwestern Division (CESWD-PDP)

SUBJECT: Implementation Guidance for Section 5144 of the Water Resources Development Act of 2007 (WRDA 2007) – Onion Creek, Texas

1. The Onion Creek, Texas project was authorized for construction by Section 1001(43) of WRDA 2007. Section 5144 directs the Secretary to include the costs and benefits associated with the relocation of flood-prone residences in the study area in the period beginning 2 years before the date of initiation of the feasibility study (Feasibility Cost Sharing Agreement executed on 25 May 2000) and ending on the date of execution of the partnership agreement for construction of the project, to the extent the Secretary determines that such relocations are compatible with the authorized project. This section also directs the Secretary to afford credit toward the non-Federal share of the project for the cost of relocation of the above described residences that were incurred by the non-Federal interest. A copy of Section 5144 is enclosed for information.
2. The purpose of this authorization is to provide credit to the non-Federal sponsor for project lands purchased up to two years prior to initiation of the Onion Creek feasibility study, and to provide credit for relocation assistance costs incurred by the non-Federal sponsor for properties acquired through the Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program (HMGP).
3. Specific implementation guidance for the provisions authorized by Section 5144 of WRDA 2007 is provided below:
 - a. A Limited Reevaluation Report (LRR) shall be prepared to document the inclusion of appropriate costs (both economic and financial) and benefits of flood-prone residences acquired by non-Federal interests after 25 May 1998 and to document and support the necessary findings of the Secretary. Funds appropriated in FY2008 or thereafter can be used to prepare the LRR. However, the PPA cannot be executed until funds have been appropriated for construction and the LRR is approved by ASA(CW).
 - b. Relocation of residences to be considered shall be within the area and level of protection of the study area for the project authorized by Section 1001(43) of WRDA 2007.

c. Costs for acquiring and removing residences within the study area accomplished as part of FEMA's Hazard Mitigation Grant Program (HMGP) are not considered part of the project costs and benefits because they were funded under another Federal agency's program. However, relocation assistance costs incurred by the non-Federal sponsor for properties acquired through the HMGP Program were not funded, nor required, by FEMA. Thus, they are considered part of the Corps project's financial costs, and shall be credited towards the non-Federal sponsor's share of the project. Reimbursement for in-kind contributions that exceed the non-Federal sponsor's cash requirements for the project is not authorized.

d. In accordance with existing policy, all benefits and costs for relocation of residences, regardless of who incurred the costs, with the exception of relocation assistance benefits provided under the Uniform Relocation Act (URA), will be included in determining the benefit to cost ratio for the project.

e. The Feasibility Report, Report of the Chief of Engineers, and the LRR will be the decision documents supporting the Project Partnership Agreement (PPA).

FOR THE COMMANDER:



STEVEN L. STOCKTON, P.E.
Director of Civil Works

Encl

Enclosure:

Water Resources Development Act of 2007

SEC. 5144. ONION CREEK, TEXAS.

(a) INCLUSION OF COSTS AND BENEFITS OF RELOCATION OF FLOOD-PRONE RESIDENCES.—In carrying out the study for the project for flood damage reduction, recreation, and ecosystem restoration, Onion Creek, Texas, the Secretary shall include the costs and benefits associated with the relocation of flood-prone residences in the study area for the project in the period beginning 2 years before the date of initiation of the study and ending on the date of execution of the partnership agreement for construction of the project to the extent the Secretary determines such relocations are compatible with the project.

(b) CREDIT.—The Secretary shall credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the cost of the project referred to in subsection (a) the cost of relocation of those flood-prone residences described in subsection (a) that are incurred by the non-Federal interest before the date of the partnership agreement for the project.

Construction Authorization: (also found in WRDA 2007 at Section 1001, Sec 43 is included for reference)

(43) LOWER COLORADO RIVER BASIN PHASE I, TEXAS.—The project for flood damage reduction and ecosystem restoration, Lower Colorado River Basin Phase I, Texas: Report of the Chief of Engineers dated December 31, 2006, at a total cost of \$110,730,000, with an estimated Federal cost of \$69,640,000 and an estimated non-Federal cost of \$41,090,000.