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	Local Cooperation POLICIES AND PROCEDURES CH 1, ENG FORM 1831	
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DEPARTMENT OF THE ARMY
Office of the Chief of Engineers
Washington, D. C. 20315

Regulation
No. 1150-2-301

1 September 1967

LOCAL COOPERATION

Policies and Procedures

1. Purpose and Scope. This regulation states the policies and procedures to be followed by all elements of the Corps of Engineers performing Civil Works functions with regard to the construction of projects which require local cooperation. It is applicable to all Division and District offices engaged in construction of Civil Works projects.

2. References.

- a. ER 11-2-101
- b. ER 1140-2-301
- c. ER 1165-2-101
- d. ER 1165-2-102
- e. ER 1180-1-20
- f. ER 405-2-680
- g. ER 500-1-1
- h. EM 1120-2-101 (paras. 1-77 f and g, and 1-84 b-o)
- i. ER 1130-2-304
- j. ER 1145-2-310

3. Authorities for Requirements of Local Cooperation.

a. The authority for requiring local cooperation for any specifically authorized project is contained in the act authorizing that project or in the act or acts which modify a previous project authorization. Such acts usually prescribe the requirements of local cooperation recommended by the Chief of Engineers in House or Senate documents which are specifically identified in the act. However, since there are some exceptions to this general practice, it is necessary to examine the pertinent authorization for each individual project in order to determine the specific requirements for that project. In some cases the authorization acts provide special requirements of local cooperation and in some cases specify the local cooperation requirements recommended by the Board of Engineers for Rivers and Harbors, the President, Mississippi River Commission, the Division Engineer, or the District Engineer.

b. Policies with regard to requiring local cooperation for projects constructed under special continuing authorities are contained in

This regulation rescinds EM 1150-2-301 dated 28 November 1958

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ER 1165-2-101, ER 1165-2-102, and ER 500-1-1. Specific details of local cooperation for projects under those authorizations are usually contained in the reports and approvals authorizing the undertaking of the work. If such special requirements have been established they will govern in construction of the project. If no special requirements have been established, the general policies contained in the above mentioned regulations and manual will be applied.

4. Establishing Details for Local Cooperation.

a. General. In determining the details of local cooperation the project document including appendices thereto will be carefully reviewed to ascertain the intent of the original reporting officer and any changes in local cooperation requirements that may be specified by the act or in the report of the Chief of Engineers, Board of Engineers for Rivers and Harbors, the President, Mississippi River Commission, or Division Engineer, as applicable. Committee reports on the authorizing act should also be examined to determine whether any clarification of intended local cooperation is contained therein. However, when the act itself is clear statements contained in the committee report have no effect. In cases where the details of local cooperation cannot be established from the act together with the committee reports or the project document and its appendices, the general policy for the particular class of project being considered as contained in EM 1120-2-101 will be applied. Where the application of those general principles is necessary a full discussion of the subject will be submitted to the Chief of Engineers in the general design memorandum or in correspondence prior to making any commitments to local interests. The following interpretations are generally accepted for the various types of projects.

b. Flood Control. (1) Most requirements of local cooperation specify that local interests shall provide without cost to the United States, all lands, easements, and rights-of-way required for the project. In order to meet this requirement local interests must perform or pay for all alterations to or relocations of public and private utilities or other facilities located on the rights-of-way which would interfere with the construction and operation of the project. Certain work in connection with such relocations on flood control projects can be accepted by the United States as set forth in paragraph 1-84 of EM 1120-2-101. Specific exceptions to the general requirements may be contained in project documents on which the authorization is based.

(2) Where ponding areas are required on flood control projects to temporarily pond interior drainage in connection with either gravity drainage structures or pumping plants, local interests will be required to acquire an adequate interest in the ponding areas either in fee or by permanent easement. Local interests should be informed that any encroachment on the ponding areas which makes additional gravity drainage or pumping

capacity necessary, should not be permitted and that any additional costs caused by such encroachments will be the responsibility of local interests.

(3) Section 3 of the Flood Control Act approved 24 July 1946 (60 Stat. 642) permits the alteration of railroad bridges and approaches thereto on any authorized flood control project to be assumed by the Federal Government. This act will be applied on all new construction projects even though the project document places the alteration of railroad bridges and approaches thereto on local interests. At the time of enactment this section was applied to a few going projects where the railroad bridge alterations had not been accomplished. It is not intended that this section be applied to any additional going projects where local interests have already agreed to perform the alteration of the railroad bridges and approaches. It should be noted that rights-of-way for such bridge and approach alterations must be furnished by local interests. Where additional alteration is due to requirements of navigation, consideration should be given to the applicability of the Bridge Alteration Act of 21 June 1940 (54 Stat. 497), as amended.

(4) For flood control projects undertaken pursuant to special continuing authorities, the reports together with approvals will be considered as project documents. General policies covering these authorities are contained in ER 1165-2-101 and ER 1165-2-102.

c. Hurricane Flood Protection. The Flood Control Act approved 3 July 1958 (72 Stat. 305) includes three projects designated as hurricane flood protection projects. Local cooperation for these projects specified in the Act differs from the usual flood control project in that local interests are required to a) contribute 30 percentum of the first cost of the projects including the costs of lands, easements, and rights-of-way b) hold and save the United States free from damages due to the construction works c) maintain and operate all the works after completion with certain exceptions as to specific features, and d) make special additional contributions for specific features. The costs of rights-of-way for such projects will include the cost of relocation of utilities and other facilities as described for flood control projects.

d. Navigation Projects. The requirements of local cooperation usually provided for navigation projects are set forth in paragraph 1-53a of EM 1120-2-101.

(1) Where local interests are required to provide all lands, easements, and rights-of-way for a navigation project they will usually be required to perform or pay for all alterations to or relocations of public and private utilities located on the rights-of-way. It should be noted, however, that certain exceptions may be specified in the project document.

(2) Local interests' arrangements and schedules for providing public terminal and transfer facilities should be carefully examined to make certain that such arrangements are in accordance with the intent of the project authorization.

(3) The general scope of the hold and save provision in the agreement with the sponsors where required is defined in EM 1120-2-101. It should be noted that the specific application of this provision to a particular project must be obtained by a review of the project document and accompanying papers.

(4) Where alteration of a railroad bridge or a publicly owned highway bridge is necessary due to navigation requirements the item of local cooperation will consist of the owner's share of the apportionment of the alteration cost computed in accordance with the principles of Section 6 of the Bridge Alteration Act of 21 June 1940 (54 Stat. 497), as amended. Alteration includes approaches but does not include fenders by themselves. For a discussion of apportionment costs under the Bridge Alteration Act see ER 1145-2-310. If the alteration does not afford any betterment to the bridge, no part of the structure is replaced, or no increased loading is desired, the bridge owner's share will be small and may be zero. The project document and accompanying papers should be reviewed to establish the details of cooperation required. (See paragraph 1-53b of EM 1120-2-101.)

e. Small Boat Harbor Projects. The usual requirements of local cooperation for small boat harbor projects are set forth in EM 1120-2-101, paragraph 1-53c. Review of the project authorization, committee reports, and project document is required to establish the details of local cooperation for each individual project.

f. Bank Protection. Requirements of local cooperation are usually the same as those for deep-draft navigation projects. Review of the authorization and project document is required to determine any special local cooperation requirements.

g. Beach Erosion. Local cooperation on beach erosion presents a special problem because construction work is usually done by the sponsor. The principles under which beach erosion projects are authorized and constructed are contained in Public Law 826, 84th Congress, approved 28 July 1956 (70 Stat. 702). Public Law 826 limits Federal participation to one-third of the cost of the project. Review of the Act and the project document is necessary to determine details for each project. In connection with protection of shores other than those Federally owned, local agencies are normally required to:

(1) Obtain approval by the Chief of Engineers, prior to commencement of work, of detailed plans and specifications and arrangements for prosecution of the work.

(2) Provide, at their own expense, all necessary lands, easements, and rights-of-way.

(3) Assure that water pollution which would affect the health of bathers will not be permitted.

(4) Assure maintenance of the protective measures during their useful life, as may be required to serve their intended purpose.

(5) Assure continued public ownership of the publicly owned shore and its administration for public use during the economic life of the project.

5. Initial Actions for Securing Local Cooperation.

a. The period required for local interests to complete the organization of an agency which is legally and financially capable of furnishing local cooperation for a project and the time required to secure rights-of-way are factors which may cause delays in the initiation of construction after funds for that purpose have been appropriated by the Congress. Legal processes for establishment of sponsoring agencies can require a period in excess of a year in some states. Approval of bond issues is often required to establish financial ability. Since actual performance of certain local cooperation requirements prior to initiation of construction is necessary (see paragraphs 7 and 8 below) District and Division Engineers should maintain a high degree of coordination with local interests during the preconstruction planning stages of the project to insure that local interests fully understand the requirements of local cooperation and the need for early action on their part to initiate necessary legal and financial procedures. The Senate Appropriations Committee Report No. 2169 on the Appropriation Bill for Fiscal Year 1957 contained the following statement on this subject:

"The committee is concerned with the delay in the initiation of construction of certain types of projects and believes that one of the major factors in such delays is the inability of local interests to secure the necessary lands and disposal areas promptly as may be required.

"The committee believes that the Corps of Engineers and local interests should take more positive measures with respect to complying with the conditions of local cooperation at the earliest possible time in the planning phase in order that construction of these projects will not be delayed when funds for construction are made available. In this connection, it is the desire of the committee that as soon as planning funds are recommended in the President's budget, initial contacts should be made with local interests with a view to determining in a preliminary manner the prospects of obtaining assurances of local cooperation for the project as authorized.

As soon as definite plans have been formulated and the first request for construction money is submitted to the Congress, the corps should seek definite assurances of local cooperation and determine the legal and financial responsibility of the local interests to meet the terms of local cooperation. The committee therefore desires that no new contracts for construction shall be entered into until the requirements for that work pursuant to the assurances of local cooperation have been met. However, it is not the intent of the committee that urgently needed flood control or navigation projects should be delayed pending contracts for future water use. In this connection the committee expects strict compliance with existing provisions of law and that there be no delivery of water for municipal, agricultural, or industrial use prior to the execution of a repayment contract."

b. In order to avoid difficulties due to local requirements after receipt of construction funds, local interests should be informed, at the earliest practicable date, of the specific rights-of-way to be acquired and the relocation work which they must accomplish, and the amount of any required local cash contributions. Estimates of local costs should be carefully prepared to avoid large increases in those estimates when actual performance of the work is undertaken. Gross appraisals should be made to determine real estate values and careful estimates should be made of the relocation costs. Although specific rights-of-way requirements usually cannot be furnished local interests until planning is well advanced, the general limits of such rights-of-way may be furnished local interests to provide a basis for estimating purposes by the sponsor. Local interests should be encouraged to take early action in preparing their own estimates of cost as a check against the Federal estimates furnished them by the District Engineer.

c. Because of the language contained in Public Law 826, 84th Congress, approved 28 July 1956 (70 Stat. 702) on beach erosion projects. Section 102 of Public Law 780, 83rd Congress, approved 3 September 1954 (68 Stat. 1255), and Section 102 of Public Law 85-500, approved 3 July 1958 (72 Stat. 300), the sponsors of such projects should be consulted to firm up the assurances of local cooperation as soon as the project is authorized by Congress, or in any event, prior to the initiation of any construction. The specific requirements of local cooperation determined from the authorization act, committee reports, and project document should be fully presented, and local interests should be requested to make, as soon as practicable, arrangements for prosecuting the work and furnishing for approval such plans as they develop for the project, together with formal assurances or agreements covering the local cooperation.

6. Formal Request for Assurances of Local Cooperation. If the general design memorandum has been approved formal request for

assurances of local cooperation will be made when construction funds are first included in the budget (submission to Congress) unless such assurances have already been received. If construction funds for a project on which assurances have not been received are included in the budget prior to approval of the general design memorandum or are added by the Appropriations Committees, formal assurances will be requested as soon as planning has advanced to the point that local interests can be informed of specific details of the responsibilities which they must assume. The time for requesting formal assurances of local cooperation for projects under general continuing authorities is specified in paragraph 10 of ER 1165-2-101. Formal requests will inform local interests of the legislative authority for the required conditions of local cooperation and will present sufficient information to clearly define what local interests must do to meet those conditions. On flood control projects the request will quote the legislative provision for expiration of the project authorization if assurances are not received within five years from the date of notice and will state that the five year period begins with the date of the formal request. Acknowledgement of receipt of the letter will be requested. If no acknowledgement is received or if the reply indicates any misunderstanding regarding local cooperation requirements or the 5-year limitation, the District Engineer will follow up with appropriate supplementary or explanatory letters. Formal requests will be sent by registered mail and receipts therefor maintained as a part of the record. Copies of correspondence to and from local interests on this subject will be furnished the Division Engineer and the Chief of Engineers. The dates on which formal requests for assurances of required local cooperation were made and the current status of local cooperation will be included in the Annual Report. The requirements for determining the sufficiency of the assurances and for their acceptance are contained in ER 405-2-680. Local interests will be informed of the approved regulations for operation and maintenance of local flood protection works described in paragraph 11 of this manual at the time assurances of local cooperation are requested. After formal assurances have once been accepted; no authority exists to again initiate a 5-year limitation period on the authorization for the project.

7. Availability of Rights-of-Way Prior to Advertising or Award of Contracts.

a. No construction will be undertaken until satisfactory assurances of the required local cooperation have been received and until any lands, easements, and rights-of-way required for at least a complete unit of the project have been provided in a manner satisfactory to the Department of the Army. On projects which consist of a single unit which will require several years for construction, consideration will be given to breaking the project into reaches. Such reaches may be considered as units if a full showing of financial and legal ability of local interests

indicates such action to be warranted. A full discussion of this subject will be submitted to the Chief of Engineers in the general design memorandum or in separate correspondence prior to making any commitment to local interests on the schedule of rights-of-way requirements.

b. Procedures for obtaining necessary lands, easements, and rights-of-way are contained in ER 405-2-680. In determining the extent of rights-of-way to be acquired the following criteria will be observed to avoid controversies after construction has been initiated.

(1) Obtain from local interests to the extent possible, a working area for the contractor sufficient in scope to permit reasonable construction operations, and thereby minimizing damage to private property.

(2) Obtain from local interests to the extent possible, permits permitting access to private property adjacent to the working area so that the contractor can take adequate protective measures or effect repairs.

(3) Prior to commencement of operations by the contractor, a detailed survey will be made of all existing structures that may be affected by the contractor's operations. The survey will be conducted in coordination with local interests, contractor, Corps of Engineers' representatives, and private parties concerned. This will result in advance agreement as to the condition of the existing structure thereby permitting accurate assessment of any subsequent damage.

8. Availability of Required Contributed Funds Prior to Advertising and Award of Contracts. The basic requirement for receipt of required contributed funds prior to initiation of work to which it applies is contained in ER 1140-2-301. Unless otherwise specifically set out in the authorizing documents, required contributions will be received prior to advertising and award of the contracts for work to be covered by such contributions. Exceptions may be in order where continuing contracts extending over several years are to be used on the work. Any proposals for exceptions will be submitted to OCE for consideration and approval prior to making commitments to local interests.

9. Transfer of Completed Projects to Local Interests.

a. Completed projects or completed useful units thereof will normally be turned over to the local interests responsible for maintenance and operation as soon as all construction, clean-up work, and testing of mechanical, electrical, and other equipment are completed and the project is in proper condition for the assumption of operation and maintenance by the agencies concerned.

b. During construction, District Engineers will keep the agencies concerned appropriately advised as to the probable date of transfer to insure that the agencies have sufficient time to make necessary arrangements.

c. The specific date for transfer of completed projects to local interests will be determined by District Engineers, in collaboration with the local interests concerned, and with the approval of the Division Engineer. The District Engineer will, if local interests so desire, conduct a joint inspection (including demonstration of operating procedures, if appropriate) with responsible local authorities on or before the date of transfer of the project.

d. The transfer will be accomplished by formal notice to the responsible authorities (sent by registered or certified mail with return receipt requested) that the completed facilities are being turned over to them as of a specific date for operation and maintenance in accordance with the requirements of the authorizing legislation. Copies of correspondence relating to the transfer will be furnished to the Division Engineer and the Chief of Engineers. The notice of transfer will be accompanied by a copy of an operation and maintenance manual. In the event that the operation and maintenance manual is not available on the date set for transfer, the notice will be accompanied by interim instructions and information that the complete manual will be supplied at the earliest practicable date.

e. Upon transfer of a completed project to local interests for maintenance and operation in accordance with requirements of the authorizing legislation, authority is considered to expire for expenditure of Federal funds for construction of additional improvements on the project or for maintenance other than inspection of the completed works. In the event that unsatisfactory conditions develop with respect to such completed projects full information will be submitted as to the cause of those conditions, together with the recommendations of Division and District Engineers as to whether necessary corrective measures should be considered as extraordinary maintenance items or damage items which are properly a responsibility of local interests or whether they should be considered as deficiencies in the original construction. No commitments to local interests regarding the accomplishment of corrective measures with Federal funds will be made without prior approval of the Chief of Engineers.

10. Regulations for Operation and Maintenance. Section 208-10, Title 33 of the Code of Federal Regulations, contains regulations for the operation and maintenance of local flood protection works approved by the Secretary of the Army in accordance with authorities contained in Section 3 of the Flood Control Act of 22 June 1936 (49 Stat. 1571), as amended and supplemented. These regulations cover conditions normally and regularly required. Whenever the regulations are not sufficiently broad to cover the specific maintenance and operation requirements of a

particular project, District Engineers will submit through the Division Engineers recommended additional regulations needed for that particular project. Authority for approval of such supplemental regulations has been delegated to the Chief of Engineers.

11. Operation and Maintenance Manuals.

a. Pursuant to the regulations cited in paragraph 10 of this regulation, District Engineers will prepare and furnish to the operating and maintaining agencies an operation and maintenance manual for each local flood protection project or separate useful part thereof. The purpose of the manual is to assist the responsible authorities in carrying out their obligations through provision of information and advice as to the operation and maintenance requirements of the project.

b. Manuals will be prepared sufficiently in advance of completion of the project to insure their readiness for transmission to local interests at the time of formal transfer of the project. Authority is delegated to Division Engineers to approve operation and maintenance manuals before issuance. The manuals need not be submitted to the Chief of Engineers.

c. Manuals will be prepared in as brief and compact a form as possible, consistent with good coverage of the maintenance and operation needs of the project. The pertinent requirements, as contained in the regulations, for maintenance and for operation of the various features of the project will be quoted under appropriate headings in the manual and followed by a discussion of special conditions and procedures necessary to comply with the requirements. Where applicable, definite provisions regarding arrangements for flood warning and prediction services will be prescribed. Photographs and sketches will be used to illustrate features of the project and methods of maintenance and operation. A minimum number of applicable maps, plans, and manufacturers' bulletins and instructions should be included. Sample copies of proposed check sheets and logs which the superintendent will be required to submit to District Engineers under the regulations will be included. Instructions on emergency flood-fighting operations and emergency repair, together with sketches and photographs, will also be provided. All essential information should be presented in a brief and concise manner.

d. Requirements for manuals covering Corps of Engineers operated projects are contained in ER 1130-2-304.

12. Procedure for Insuring Compliance with Regulations.

a. District Engineers will keep informed as to the extent of compliance with approved regulations for operation and maintenance of local flood protection projects through regular, periodic inspection of the projects concerned and through careful analysis of the semiannual


reports which the operating and maintaining agencies are required to submit in accordance with regulations. The District Engineer's views as to any measures required to conform to the approved regulations will be furnished to the agencies responsible. In any case where the District Engineer has been unable to arrange satisfactory compliance or where there is question or disagreement as to the measures required for compliance, a report of the circumstances, together with the recommendations of the Division and District Engineers, will be submitted to the Chief of Engineers for consideration.

b. Assumption of maintenance responsibilities by state governments is considered to be preferable when such cooperation can be obtained because of the larger taxing ability of the state and availability of a permanent organization. To the extent practicable, Division and District Engineers should work toward assumption of maintenance responsibilities by the larger political subdivisions. As an alternative to actual assumption of maintenance responsibilities by the state, the enactment of state legislation which is enforceable by taxation or penalties, is considered desirable. When a general trend of lack of maintenance within a particular state is noted, Division and District Engineers should discuss the possibility of such legislation with appropriate state officials. Examples of state cooperation with regard to maintenance are those in California and New York. A special law applying to maintenance of flood control projects has been enacted in the State of Arkansas.

c. A report of maintenance deficiencies on all local protection projects specifically authorized by Congress will be submitted to OCE, attention ENG CW-*** prior to 31 December of each year. Reports will include those authorized under the special authority of Section 205 of the Flood Control Act of 1948, as amended, which require maintenance by local interests in accordance with Title 33, Code of Federal Regulations, Navigation and Navigable Waters, Chapter II Corps of Engineers, War Department, Part 208, Flood Control Regulations, Maintenance and Operation of Flood Control Works. The reports will describe the deficiencies in the project maintenance and present an estimate of the cost of maintenance work required to bring the project to a satisfactory condition. The report will also present an estimate of the normal annual maintenance cost of the project. Copies of inspection reports and correspondence sent to local interests will be inclosed with the report. In the event that there are no projects in which maintenance is unsatisfactory, District Engineers will submit a negative report. This report has been assigned the Reports Control Symbol ENGKW-105.

13. Records. District Engineers will keep a consolidated record of pertinent data on local cooperation and other aspects of local flood protection projects on ENG Form 1831.

FOR THE CHIEF OF ENGINEERS:


MILES L. WACHENDORF
Colonel, Corps of Engineers
Executive