

**Emergency Employment of Army and Other Resources  
CIVIL EMERGENCY MANAGEMENT PROGRAM**

Supplementation to this regulation is permitted but not required. If supplements are issued, USACE Commanders will provide a copy of their supplement to HQUSACE (CECW-OE), Washington, DC, 20314-1000 through chain of command channels.

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## Chapter 1 Introduction

**1-1. Purpose.** This regulation prescribes policies for the Civil Emergency Management (CEM) Program of the U.S. Army Corps of Engineers (USACE) under the authorities of 33 U.S.C. 701n (commonly referred to as Public Law (PL) 84-99); the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) (The Stafford Act); Army Regulation (AR) 500-60, Disaster Relief; and Engineer Regulation (ER) 1130-2-530, Flood Control Operations and Maintenance Policies.

**1-2. Applicability.** This regulation applies to HQUSACE elements, Major Subordinate Commands (MSC's), districts, laboratories, the 249th Engineer Battalion (Prime Power), and other field operating activities (FOA) of USACE. This regulation is applicable in the fifty states, the District of Columbia, and the territories of the United States unless provided otherwise by law. For instance, activities governed by the Stafford Act also apply to the Federated States of Micronesia, the Marshall Islands, and the Trust Territory of the Pacific Islands.

**1-3. Distribution Statement.** Approved for public release, distribution is unlimited.

**1-4. References.** See Appendix A.

**1-5. Glossary of Acronyms and Terms.** See the Glossary at the end of this regulation.

**1-6. Responsibilities.** The emergency management authorities and responsibilities of commanders at all levels within USACE are executed through the Chief, Readiness/Emergency Management element.

a. USACE. The Commander, USACE will:

(1) Establish policies and procedures to implement the CEM Program to provide assistance under PL 84-99, AR 500-60, and in support of other Federal agencies.

(2) Establish and maintain a readiness/emergency management organization.

(3) Provide guidance to subordinate elements in supporting other agencies with emergency/disaster and response assistance.

(4) Maintain all USACE elements in a high state of readiness to respond to disasters and emergencies.

(5) Manage the Flood Control and Coastal Emergencies (FCCE) appropriation that is authorized by PL 84-99.

(6) Maintain liaison with and coordinate the CEM Program with appropriate Federal agencies and ensure timely support to requests for assistance.

(7) Manage those preparedness activities necessary to support the Federal Emergency Management Agency (FEMA) under the Stafford Act and ER 500-1-28.

(8) Establish and maintain the USACE Operations Center (UOC) in accordance with EP 500-1-1. Establish and maintain a Crisis Management Team (CMT), Crisis Action Team (CAT), and establish and maintain appropriate response and support rosters.

(9) Maintain a training program.

(10) Conduct exercises.

b. Major Subordinate Commands. MSC Commanders will:

(1) Establish and maintain a separate readiness/emergency management organization, to include personnel, space, and facilities, necessary to manage the CEM Program.

(2) Through publication of supplements, or other appropriate documents, develop guidance and procedures to implement emergency/disaster and response authorities within MSC boundaries.

(3) Conduct exercises.

(4) Establish and maintain liaison with appropriate Federal and military agencies to coordinate the CEM Program. As a minimum, this will include FEMA Region headquarters, Environmental Protection Agency (EPA) Region headquarters, Continental United States Army (CONUSA) headquarters, and U.S. Coast Guard (USCG) Districts.

(5) Oversee and coordinate CEM Program activities MSC-wide.

(6) Allocate funding for the CEM Program to district commanders.

(7) Provide guidance to subordinate elements in supporting other agencies with disaster assistance.



(8) Establish and maintain an Emergency Operations Center (EOC) in accordance with EP 500-1-1. Establish, train, and maintain a CMT, CAT, and appropriate response and support rosters. (See paragraph 3-3c.)

(9) Maintain a training program.

(10) Review and endorse district requests for out of cycle programming.

(11) Develop a plan for establishment of an alternate EOC and reconstitution of the MSC and, in coordination with HQUSACE, have a backup command (another MSC or a subordinate district) designated to assume command if a disaster so warrants.

(12) Manage MSC preparedness activities necessary to support FEMA under the Stafford Act and ER 500-1-28, to include serving as Lead Division, when so designated, for a given type of Planning and Response Team (PRT).

(13) Provide USACE representation on Regional Response Teams (RRT's) and Hazard Mitigation Teams (HMT's), and other teams as needed.

c. Districts. District Commanders will:

(1) Establish and maintain a separate readiness/emergency management organization, to include personnel, space, and facilities, necessary to manage the CEM Program, and assign Program Management responsibility for all emergency management and Inspection of Completed Works activities to the Emergency Manager or Chief of Readiness/ Emergency Management.

(2) Establish and maintain operational plans and procedures to respond to emergencies and disasters within delegated authorities and geographic areas of responsibility.

(3) Develop and execute the Rehabilitation and Inspection Program (RIP) in accordance with Chapter 5 of this regulation.

(4) Ensure personnel are prepared to respond to emergencies and disasters.

(5) Establish and maintain an EOC and appropriate response and support rosters.

(6) Conduct training and exercises.

(7) Establish and maintain liaison with appropriate officials from military, Federal, state, local and charitable agencies. This will include state emergency management agencies.

(8) Manage allocated funds.

(9) Establish, train, and maintain a CMT and CAT. (See paragraph 3-3c.) Establish, train, and maintain other teams as needed or directed, to specifically include Planning and Response Teams.

(10) Develop a plan for establishment of an alternate EOC and reconstitution of the district and, in coordination with the MSC, have a backup command designated to assume command and/or district responsibilities if a disaster so warrants.

(11) Manage preparedness activities necessary to support/execute FEMA activities under the Stafford Act and ER 500-1-28.

(12) Execute a comprehensive evaluation program in accordance with current guidance.

(13) Maintain stocks of emergency supplies and equipment for floodfight response. (See paragraph 3-8.b.(1)). Maintain appropriate stockage levels of Emergency Management High Visibility (EMHV) items.

(14) Provide technical assistance as needed for CEM Program-related activities.

(15) Integrate FCCE-funded projects into the district's Program (or Project) Review Board process. This specifically includes all PL 84-99 assistance efforts funded by the following FCCE classes: 310, 320, 330, 410, 420, and 510. This may also include all other classes of FCCE-funded work.

d. Philadelphia District. The Commander, Philadelphia District, will:

(1) Act as the designated office of primary responsibility for the procurement, distribution, and storage of EMHV items such as caps, shirts, jackets, magnetic signs, etc.

(2) Prepare and submit budget request for EMHV items directly to HQUSACE.

(3) Be prepared to supply bulk issues of EMHV items.

e. Other Elements, General. The Engineer Research and Development Center, Laboratories and FOA's will:

(1) Provide general and direct support to HQUSACE, MSC's, and districts.

(2) Develop response plans to provide specialized technical support/assistance to mission requirements.

(3) Designate staffing for mission requirements in support of MSC's.

(4) Participate in CEM Program exercises and training.

f. Cold Regions Research and Engineering Laboratory (CRREL). The Remote Sensing/Geographic Information Systems (RS/GIS) Center of CRREL will:

(1) Provide direct support to CECW-OE for the CEM Program. Coordinate CEM Program remote sensing and GIS activities of all USACE laboratories.

(2) Provide direct support to MSC and district CEM Program activities.

(3) Develop response plans and provide staff as necessary to HQUSACE.

(4) Coordinate and manage the staffing of RS/GIS field teams as necessary during emergencies.

(5) Provide analytical support as required.

g. 249th Engineer Battalion. The Commander, 249th Engineer Battalion will:

(1) Provide advice and technical assistance to all USACE elements in all aspects of electrical power and distribution systems.

(2) Be prepared to provide operating elements and command and control elements to produce and distribute electrical power with organic assets, military standard equipment, and/or commercially procured assets.

h. Readiness Support Center. The Chief, Readiness Support Center will:

(1) Provide general support of CECW-OE as directed.

(2) Coordinate and train specialized cadres, teams, or individuals, as required by HQUSACE.

(3) Coordinate activation and deployment of Urban Search and Rescue (US&R) cadre members with respective home MSC/District.

(4) Provide technical support and assistance to MSC's and districts in the development of response plans as requested.

(5) Be prepared to provide and deploy personnel to disaster sites to provide technical assistance and advice.

(6) Serve as the program manager for the Evaluation and Corrective Action Program.

(7) Serve as the program manager for the Independent Assessment Team process.

i. Tactical Support Center. The Chief, Tactical Support Center will:

(1) Provide general and direct support of HQUSACE as directed.

(2) Serve as USACE Program Manager for the Deployable Tactical Operating System (DTOS).

(3) Serve as the USACE Program Manager and functional proponent for ENGLink.

(4) Serve as the functional proponent for USACE HF radio operations and VSAT operations.

(5) Provide technical support, assistance, and technical expertise to all levels of USACE regarding construction and upgrade of Emergency Operations Centers.

(6) Be prepared to provide and deploy personnel to disaster sites to provide technical assistance and advice.

## CHAPTER 2 IMPLEMENTATION OF THE CIVIL EMERGENCY MANAGEMENT PROGRAM

### 2-1. Authorities.

a. PL 84-99. The authority for USACE to provide emergency response/ disaster assistance is PL 84-99 (33 U.S.C. 701n). The appropriation for this authority is Flood Control and Coastal Emergencies, 96x3125. Under PL 84-99, the Chief of Engineers is authorized to undertake activities, including disaster preparedness, Advance Measures, emergency operations (Disaster Response and Post Flood Response), rehabilitation of flood control works (FCW) threatened or destroyed by flood, protection or repair of Federally authorized shore protective works threatened or damaged by coastal storm, provision of emergency water due to drought or contaminated source, emergency dredging, and flood-related rescue operations. Most USACE preparedness activities in support of the Federal Response Plan (FRP) are funded under FCCE appropriations. Appendix B provides a copy of PL 84-99.

b. The Stafford Act. PL 93-288, The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)(The Stafford Act). In accordance with The Stafford Act and the FRP, FEMA may direct Federal agencies to use available personnel, supplies, facilities, and other resources to provide assistance in the event of a major disaster or emergency declaration. Under the FRP, the Department of Defense (DOD) has responsibility for Emergency Support Function (ESF) #3, Public Works and Engineering. DOD has designated USACE as its operating agent for ESF #3, to include planning, preparedness, and response, with assistance to be provided by other branches of DOD as needed. See ER 500-1-28 for USACE FRP activities.

(1) In accordance with the Stafford Act, FEMA may direct USACE (as the operating agent for DOD) to use its available personnel, supplies, facilities and other resources to provide assistance in case of a major disaster or emergency declaration by the President.

(2) At any time before a Presidential disaster declaration is made, FEMA may direct DOD (which in turn may direct USACE) to perform any emergency work necessary, with or without reimbursement of agency costs.

(3) Hazard Mitigation Teams (HMT's). Under the Interagency Agreement for Non-structural Flood Damage Reduction Measures as Applied to Common Flood Disaster Planning and Post Flood Recovery Practices, USACE has a standing mission to participate on interagency HMT's.

c. AR 500-60.

(1) Under AR 500-60, USACE commanders may provide USACE resources and assistance when required by imminently serious disasters or emergencies. Provision of resources is generally limited to those actions necessary to save human life, prevent immediate human suffering, or lessen major property damage or destruction. No contracting is permitted for AR 500-60 support, unless the requesting agency provides the funds needed to award and administer the contract. The USACE commander providing AR 500-60 assistance to civil authorities is not required to obtain an agreement for reimbursement from the requesting agency before providing assistance.

(2) Under AR 500-60 and The National Oil and Hazardous Substance Pollution Contingency Plan (NCP), USACE is responsible for responding to oil or hazardous substance releases as part of the Federal effort. This effort is coordinated by the USCG for coastal and inland waterway systems and the EPA for all other areas.

**2-2. Funding for the CEM Program.** The Commander, USACE has promulgated ER 11-1-320 to address funding policies and issues for Emergency Management.

a. Reprogramming. Reprogramming will be done in accordance with ER 11-2-201. Only Category 100 funds may be reprogrammed.

b. Cost Accounts. Refer to ER 37-2-10, Chapter 8 for establishment of appropriate cost accounts.

c. Elimination of Delegation of Authority. The concept of "delegation of authority" for the FCCE appropriation has been eliminated.

**2-3. General CEM Program Policies.**

a. Priority of USACE Emergency Assistance. USACE must be responsive to the public need in case of disasters or emergencies to provide assistance to save human life, prevent immediate human suffering, and/or mitigate property damage. It is the policy of the United States Army Corps of Engineers that all commanders will always give emergency assistance requirements first priority. Commanders will provide immediate response using all available resources and expedited procedures, to include emergency contracting actions when appropriate.

b. Application of Policy. MSC's and districts will apply Corps policy as contained in this regulation without deviation, unless an exception to policy has been granted by HQUSACE. All USACE actions will be undertaken with cognizance of the principle that Federal assistance is supplemental to State and local efforts.

c. Limitations on USACE Assistance Under PL 84-99. USACE emergency/disaster assistance is limited to the preservation of life and the protection of residential and commercial developments, to include public and private facilities that provide public services.

(1) Exclusive direct assistance to individual homeowners, property owners, or businesses (to include agricultural businesses), is not permitted.

(2) Exclusive direct assistance to a single public or publicly owned facility (e.g., a municipal water treatment plant) is permitted.

(3) USACE assistance may not be provided to or on military installations, or on other Federal lands, except on a cost reimbursable (e.g., Support for Others) basis. This limitation does not apply to those lands held in trust by the Federal Government for Federally recognized Indian tribes.

d. Lead Districts and Emergency Management Boundaries.

(1) The established Civil Works boundaries will be adhered to in defining areas of responsibility for PL 84-99 emergency management response and recovery activities.

(2) MSC's will designate a lead district for each state and territory for PL 84-99-related activities, under the "one door to the Corps philosophy." In those situations where a state is within the boundaries of more than one MSC, the MSC's will coordinate to designate the lead district. Response planning efforts for FRP activities will be done in accordance with ER 500-1-28.

(3) MSC commanders may mutually agree to temporary realignment of boundaries for emergency management purposes. HQUSACE will be notified of any realignments.

e. Interdivisional Assistance. MSC commanders may request interdivisional assistance in the event their resources are insufficient to cope with an emergency. Requests for assistance involving positions the supported MSC has been unable to fill with Division resources/volunteers will be coordinated through the UOC. The UOC will task other MSC's as needed.

f. Reporting. Higher headquarters will be notified of actual or potential emergency situations as soon as possible. Procedures and formats of EP 500-1-1 and ENGLink will be followed. Refer to EP 500-1-1, Chapter 4, Section V, for reporting procedures and formats.

g. Use of Funds from Other Federal Agencies. A public sponsor may use funds from other Federal agencies for meeting all or part of the local cost share for assistance under PL 84-99,

provided the granting agency confirms in writing that such use of the funds is not prohibited by law.

h. Other USACE Authorities. Where other Federal agencies have applicable emergency authorities, or other USACE authorities are more appropriate, USACE assistance under PL 84-99 is not permitted.

i. Release of Information.

(1) All information released to the media and the public must be cleared through the Public Affairs Office of the echelon employing current Department of Defense Principles of Information.

(2) Any information about the approval-disapproval status of any PL 84-99 project will not be released until a decision is made by the approving command.

(3) Information about the status of ongoing projects, schedules, and information obtained in the field may be released, if available.

(4) Information regarding damage estimates prepared by USACE elements for FEMA for Stafford Act related activities, will not be released outside USACE unless the information has been coordinated with, and approval has been obtained from, FEMA.

j. Cost Sharing. USACE activities, except loaned supplies and equipment, FCW rehabilitation work, and Advance Measures projects involving a permanent standard of construction, will normally be 100 percent Federally funded. FCCE funds will not be used to reimburse state or local governments for their costs in a disaster response.

k. Environmental Documentation.

(1) Emergency flood control, shore protection, and other disaster activities performed by USACE under PL 84-99, and USACE response and recovery actions requested by FEMA under The Stafford Act, are not subject to the National Environmental Policy Act (NEPA) documentation requirements of ER 200-2-2 if risk to life, health, property, or severe economic losses is imminent.

(a) District commanders shall consider the probable environmental consequences when determining appropriate emergency measures and describe proposed NEPA documentation or exclusion, as appropriate.

(b) Actions taken to restore facilities to pre-disaster conditions will not be construed to be either major Federal actions or as having significant effects.



(2) On occasion, emergency activities will occur which are considered major in scope and for which potentially significant environmental impacts are anticipated (e.g., comparable to the 1980 Mt. St. Helens eruption.) When the situation does not allow time to observe the provisions of NEPA, the Council on Environmental Quality will be consulted through HQUSACE for alternate arrangements in accordance with ER 200-2-2. The Council will limit such arrangements to actions necessary to control the immediate impacts of the emergency situation. (Reference: Section 1506.11, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act.)

I. Flood Plain Management (Executive Order (EO) 11988). ER 1165-2-26 implements EO 11988 for USACE.

(1) PL 84-99 Activities. Emergency activities under PL 84-99 are generally exempt from the provisions of EO 11988. However, the spirit and intent of the Order shall prevail, to the extent practicable, dependent on the urgency of the situation. Documentation for recommended projects shall include steps taken toward compliance or reasons for noncompliance.

(2) The Stafford Act, as amended. USACE will follow the guidance of FEMA in the performance of Stafford Act activities. Decisions on whether the requirements of EO 11988 are applicable to any particular action are the responsibility of FEMA.

m. Safety. All CEM Program activities will be conducted in accordance with Engineer Manual (EM) 385-1-1.

n. Requesting Authority. Any reference to "Governor" of a state will also mean:

(1) The governor of United States commonwealths, territories, and possessions.

(2) The mayor, as it pertains to the City of Washington, D.C.

(3) The chief executive (e.g., president, governor) or governing council of a Federally recognized Indian tribe or Alaska Native Corporation.

o. Work for Other Federal Agencies. Authority to provide services to other Federal agencies is provided in 31 USC 1535 (the Economy Act) and in 10 USC 3036(d). ER 1140-1-211 provides additional guidance.

p. Work for State and Local Governments.

(1) Authority to provide services to state and local governments is provided in 31 USC 6505 (the Intergovernmental Cooperation Act) and 10 USC 3036(d). ER 1140-1-211 provides detailed instructions.

(2) USACE may provide personnel to assist communities with public information programs for awareness and knowledge of flood hazards and flood fighting methods.

(3) The policy guidance that governs USACE acceptance of contributed funds for PL 84-99 approved projects is ER 1165-2-30.

q. Security. In disaster and contiguous areas, USACE depends upon duly constituted authorities (e.g., state and local police, U.S. Marshals Service, etc.) for the control of personnel circulation, vehicular traffic, and the maintenance of law and order. The HQUSACE Security Office and MSC/district security officers are responsible for coordinating activities to ensure the security of Government property and work sites, and unimpeded deployment of USACE personnel.

r. Definition of a Public Sponsor. A public sponsor must be a public entity that is a legally constituted public body with full authority and capability to perform the terms of its agreement as the non-Federal partner of the Corps for a project, and able to pay damages, if necessary, in the event of its failure to perform. A public sponsor may be a State, county, city, town, Federally recognized Indian Tribe or tribal organization, Alaska Native Corporation, or any political subpart of a State or group of states that has the legal and financial authority and capability to provide the necessary cash contributions and lands, easements, rights-of-way, relocations, and borrow and dredged or excavated material disposal areas (LERRD's) necessary for the project.

s. Contingency Amounts for Initial Funding for Contracting. For all types of construction contracting using PL 84-99 funds (Categories 200-500), contingency amounts are limited. For dredging contracts, the maximum allowable contingency percentage is 15 percent of the construction cost of the project. For all other types of contracts, the maximum allowable contingency percentage is 10 percent of the construction cost of the project.

#### **2-4. Policy on Cooperation Agreements.**

a. General. In providing emergency assistance (to include flood fight assistance, Rehabilitation Assistance, Emergency Water Assistance, and Advance Measures) to a public sponsor under this regulation, a Cooperation Agreement (CA) is required to assure a firm understanding between USACE and the public sponsor. CA formats are provided in EP 500-1-1. CA's that contain special or unusual conditions, that may obligate USACE to undertake

actions that are not specifically addressed in ER 500-1-1/EP 500-1-1, or that waive any rights or legal protections (e.g., a deference to a state law) require HQUSACE approval. Model CA's and typical provisions are in EP 500-1-1.

b. CA Signature Authority. The CA will be executed with the public sponsor. The district engineer or deputy district engineer will sign the CA for USACE.

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## CHAPTER 3 DISASTER PREPAREDNESS

**3-1. Disaster Preparedness Policy.** MSC and district commanders will be prepared to provide immediate and effective response and assistance prior to, during, and after emergencies and disasters. Preparedness includes an emergency management organization, planning, training, exercises, adequate command and control facilities, supplies, tools and equipment, and the FCW inspection component of the Rehabilitation and Inspection Program.

**3-2. Preparedness Budget.** MSC's and district's are funded annually from the FCCE Appropriation, 96x3125. Funds are allocated to division commanders for distribution to districts in accordance with HQUSACE guidance.

**3-3. Organization.** MSC and district commanders will provide adequate staffing for a readiness/emergency management organization to accomplish the preparedness mission as defined by this regulation, ER 10-1-2, ER 500-1-28, and other appropriate documents. In addition to a full time readiness/emergency management staff, MSC's and districts will have cadre(s) or team(s) readily available to:

a. Provide assistance under USACE authorities for flood emergencies and other natural disasters.

b. Execute responsibilities and missions under the Stafford Act and the FRP in accordance with ER 500-1-28.

c. Staff a CMT.

(1) The CMT will consist of the Emergency Manager, and senior representatives from technical and functional areas (e.g., engineering, project management, contracting, real estate, logistics, human resources, etc.)

(2) When the magnitude of an emergency situation demands a separate management element, and in accordance with guidance and direction from the MSC/District Commander, the CMT will:

(a) Provide guidance and direction for MSC/district activities during emergency situations.

(b) Set response and recovery priorities.

(c) Provide overall management to response and recovery activities.

d. Staff a CAT. The CAT is a group of staff action officers, project managers, functional representatives, and support personnel necessary to operate an Emergency Operations Center.

### **3-4. Planning and OPLAN's.**

a. Plans. HQUSACE, MSC's, and districts will prepare and maintain necessary plans for emergencies and disaster assistance, establishing an alternate EOC, and reconstituting the MSC/district. The plan or plans will be published as Operation Plans (OPLAN's), or standing operating procedures (SOP's), and will address emergency/disaster assistance procedures under all applicable authorities and potential mission assignments. Other OPLAN's or SOP's may be developed to enhance emergency operations.

#### b. OPLAN's.

(1) Definition. An Operation Plan (OPLAN) is a proposal for executing a command decision or project. It represents the command's preparation for future or anticipated operations.

(2) OPLAN Preparation Requirement. Each division and district will have, as a minimum, an OPLAN that addresses a generic disaster within the division/district. The OPLAN will include general topics such as activating, staffing, and operating the EOC; reporting requirements; notification and alert rosters; and organizing for response to disasters. The OPLAN will have one or more appendices that specifically address the disaster(s) most likely to impact the division/district. Specific OPLAN's addressing different types of disasters may be prepared in addition to the basic disaster OPLAN. OPLAN's prepared under auspices of the Catastrophic Disaster Preparedness Program, the National Emergency Preparedness Program, or the Catastrophic Disaster Response Plans efforts will suffice to meet OPLAN preparation requirements of this paragraph.

#### c. OPLAN Reviews.

(1) OPLAN's will be reviewed and updated annually to reflect administrative changes such as new key personnel, changes in phone numbers, etc.

(2) The division/district's generic or principal disaster OPLAN will be reviewed, revised, and republished biennially.

d. Format. The format at Figure 3-1 of EP 500-1-1 will be the basic format used for preparation of Emergency Management Operation Plans (OPLAN's) in USACE.

e. Privacy Act. Any personnel directories prepared must comply with the Privacy Act.

**3-5. Training.** MSC's and districts will ensure personnel assigned emergency assistance responsibilities are properly trained to accomplish them. This includes, but is not limited to, personnel assigned to the EOC, CMT, CAT, Regional Operations Center, Emergency Response Team, Planning and Response Team, levee inspection missions, etc.

**3-6. Exercises.**

a. Requirement. MSC's and districts are required to conduct an exercise at least once every two years, consistent with available funding. This requirement may be waived by the MSC/District Commander if an actual emergency response was conducted during the two-year period that was of sufficient magnitude to have adequately trained CMT/CAT members and other personnel. The MSC/District Emergency Manager will make a written recommendation to the commander concerning the need for an exercise, with the commander making the final decision.

b. After Action Reports. After action reports (AAR) for exercises conducted will be prepared in accordance with EP 500-1-1 and forwarded to the next higher headquarters and to HQUSACE.

c. Funding. When an MSC or district determines that a programmed exercise is not needed for a given year, any funds allocated for such an exercise will be immediately offered for revocation.

**3-7. EOC and Facility Support.** MSC's, districts, the 249th Engineer Battalion (Prime Power) and the Topographic Engineering Center will provide a dedicated facility for an EOC to provide command and control for emergency/disaster response and recovery activities. EOC and facility support will be provided in accordance with EP 500-1-1, paragraph 3-5.

**3-8. Equipment and Supplies.**

a. Equipment and Supplies for Readiness/Emergency Management personnel, and Planning and Response Teams. MSC's and districts will maintain equipment and supplies to be readily available for use by the EOC, disaster field offices, disaster field teams, Planning and Response Teams, and similar entities. Equipment procured for field use may be special, compact, lightweight and/or portable. Such equipment and supplies may include, but are not limited to, the following:

(1) Field kits, office supplies, pagers, telephone answering machines, notebook computers, and telephones. Computers of any kind other than notebook computers are specifically excluded.

(2) Safety and protective items such as hard hats, overshoes, safety glasses, and rain gear. FCCE funds should not be used to procure such safety and protective items for individuals whose normal job duties require such items.

(3) USACE EMHV items. EMHV items will be used during disaster/emergency responses. MSC's and districts are required to stock those EMHV items centrally procured by the Philadelphia District. MSC Emergency Managers may approve MSC/district requests for EMHV items not centrally procured that are needed to meet mission accomplishment. Items procured under authority of this paragraph will have standard Corps logos on them. No MSC or district name or identification is permitted.

(4) Audio and video equipment and supplies.

(5) Communication devices for weather and news data, if such data are not readily available through Internet sources.

b. Equipment and Supplies for Emergency Operations.

(1) Equipment and supplies may be stockpiled for use during emergency operations and exercises.

(2) Accountability for all equipment and supplies will be maintained in accordance with ER 700-1-1.

(3) Equipment and supplies will not be issued for stockpile to any non-USACE activity.

(4) Pumps and certain other types of equipment (e.g., sandbag filling machines) for use by non-Federal interests during flood emergencies may be procured. Maintenance on pumps and equipment will be funded under Class 240. Maintenance and repair of pumps and equipment in the inventory will be in accordance with ER 750-1-1.



## **CHAPTER 4**

### **EMERGENCY OPERATIONS - RESPONSE OPERATIONS**

**4-1. Policy.** USACE may provide emergency assistance under PL 84-99 (Class 210, Response Operations, or Class 230, Post Flood Response) to save lives and protect improved properties (e.g., public facilities/services and residential/commercial developments) during or following a flood or coastal storm. USACE may provide technical assistance to save lives and protect improved properties (e.g., public facilities/services and residential/commercial developments) during or following other types of natural disasters.

a. Principle of USACE Emergency Assistance. USACE emergency assistance will be undertaken only to supplement state and local efforts. State, tribal, and local interests must commit all available resources, i.e., work force, supplies, equipment, funds, National Guard assets, etc., as a general condition of USACE assistance.

b. Assistance for Ice Jams. Assistance regarding ice jam clearing and ice jam blasting is limited to technical assistance. USACE will not participate in, nor contract for, ice blasting or ice jam clearing operations.

c. All assistance provided by USACE is subject to the policy in Chapter 2, and this chapter.

**4-2. Authorization.** MSC and district commanders must request funding prior to activation and/or provision of assistance. Specific exemptions to this are provided at ER 11-1-320. Where other Federal agencies have adequate emergency authorities, USACE assistance under PL 84-99 is not permitted.

#### **4-3. Emergency Operations - Flood Response Operations.**

a. Declaration of Emergency. District commanders will issue a Declaration of Emergency in order to implement their flood response operations authorities.

(1) The Declaration of Emergency may initially be verbal, but must be made in writing and reported in the district's SITREP within 24 hours of the declaration.

(2) Authority to issue a Declaration of Emergency is delegated to Deputy District Engineers, and all supervisors in the chain from the District Commander to the Chief of Emergency Management, inclusive. For purposes of a Declaration of Emergency, "Chief of Emergency Management" includes an acting Chief of Emergency Management. District commanders may withhold authority to issue a Declaration of Emergency, either by written correspondence, or via a published OPLAN.

b. Scope of Assistance. USACE assistance during flood fighting operations will be of a temporary nature to meet the immediate threat and to supplement state and local efforts. It is not intended to provide permanent solutions to flood problems.

c. Flood Fight Efforts. USACE flood fight efforts will be in accordance with sound principles of engineering judgement and economic justification.

d. Technical Assistance. Technical assistance consists of providing review and recommendations in support of state and local efforts, and helping determine feasible solutions to uncommon situations. The following are examples of technical assistance:

(1) Providing experienced personnel to give guidance on flood fight techniques and emergency construction methods.

(2) Providing personnel to inspect existing flood protection projects and/or structurally threatened dams to identify problem areas and recommend corrective measures.

(3) Providing hydraulic or hydrologic analysis, geotechnical evaluations, topography and stream data, maps, and historic flood or storm information.

e. Direct Assistance. Direct assistance may include, but is not limited to, the issuance of supplies, the loan of equipment, rescue operations, directing flood fight operations, and contingency contracting. Direct assistance under PL 84-99 is limited to flooding and coastal storm-related emergencies only.

(1) Supplies and Equipment. Issuance of supplies and equipment to non-Federal interests is permitted only in declared flood emergencies. Government supplies and equipment should be made available if the arrival or non-availability of local supplies and equipment will cause delays in the response effort. All unused stocks on loan will be returned to USACE when the operation is complete. USACE supplies and equipment may be loaned to tribal, state, and local officials for use in supplementing their flood fighting operations. Loaned supplies and equipment should be returned in the same condition as it was when lent, replaced in kind, or reimbursement made to USACE. District commanders may waive loan replacement requirements for expendable supplies when a presidential disaster declaration under authority of the Stafford Act has been made. Reimbursement is required for all other situations.

(2) Rescue. USACE may use its resources to assist in rescue operations. Any USACE equipment and personnel used in the operation should be directed by a local official such as a law enforcement officer, or tribal/state/city/county officials duly appointed to conduct rescue operations.

(3) Directing Flood Fight Operations. USACE may direct flood fight operations upon request of an appropriate state or local official. However, legal responsibility remains with the requesting state or local official.

(4) Contingency Contracting.

(a) USACE may award contracts for emergency operations, when reasonable and prudent to do so. Actions will conform with Army Federal Acquisition Regulation Supplement Manual No. 2, entitled Contingency Contracting, and other current guidance. See Chapter 11 for additional information.

(b) Flood fight assistance to a single FCW project/levee district anticipated to exceed \$1 million must be coordinated with HQUSACE prior to execution.

(5) A CA is required for all direct assistance and contingency contracting performed. See EP 500-1-1, Chapter 4, Figure 4-2 for the CA format.

(6) Supply. Before commercially contracting for supplies, particularly sandbags during a flood fight, USACE stockpiles, GSA stocks, or Defense Logistics Agency (DLA) supply sources should be given first consideration if timely delivery can be made and the costs are less than or equal to that of the commercial source for equivalent sandbags. All applicable supply and contracting directives will be followed. Contingency contracting methods may be used if needed to meet the mission requirement.

f. Data Collection. Incidental to ongoing flood response operations, the recording of flood data that is (1) unique to the basin, and (2) would be irretrievably lost if not collected during or immediately after a flood, can be accomplished where no other authority exists and no other funds are available. Data collection efforts will be limited to those situations involving record or near-record flood levels, or a set of highly unique circumstances not previously encountered.

(1) Acceptable data collection activities include: ground and aerial photography (not to include controlled aerial photography or map preparation); setting of high water marks for future recovery and documentation under other authorities; and basic hydrologic data not obtainable under other programs, from USACE project activities, or from other agencies.

(2) Detailed flood damage surveys or analysis, collection of economic data, hydrologic studies, compilation of comprehensive flood data, sedimentation surveys, collection of data on socio-economic impacts, and detailed frequency analysis cannot be undertaken using this authority.

(3) Any data collected should be maintained at the district as a permanent reference file. All data collection activities should be substantially complete when the emergency response/Post Flood Response activities are complete.

g. Flood Fighting - Agricultural Levees. Flood fight activities on agricultural levees will be limited to the provision of technical assistance to local interests.

h. Deliberate Levee Cuts.

(1) Effecting a deliberate levee cut to maintain the structural integrity of the levee and/or reduce expected repair costs is a responsibility of the public sponsor. Deliberate levee cuts normally will not be carried out by USACE.

(2) Repairs of deliberate levee cuts are not eligible for Rehabilitation Assistance. An exception will be made for those levees that were deliberately breached after consultation with the Corps, and the Corps acknowledged the validity of the need for the deliberate breach to protect the integrity of the levee (or an adjacent levee system) and thereby reduce overall damages.

i. Ending Flood Response Activities. Field flood response activities substantially terminate when floodwaters recede to bankfull, absent a short-term (less than 72 hours) threat of a return to flood conditions.

j. Reporting. Reporting will be in accordance with the procedures of EP 500-1-1.

k. After Action Reports. After action reports will be prepared as required in Chapter 4, EP 500-1-1, in the format specified.

l. Haul Roads. Refer to paragraph 5-2.t. for policy regarding restoration of haul roads.

m. Pumps. Exclusive of Corps project operations, USACE-owned and USACE-leased pumps are to be used only for floodfight purposes, and not for dewatering purposes.

**4-4. Emergency Operations - Disasters Other Than Floods.** Under PL 84-99 authority, operations during non-flood emergencies are limited to activation of EOC's, rescue operations, the provision of limited technical assistance, and liaison activities. These activities are properly funded under Class 210 until the situation clarifies, and disengagement of USACE resources or the identification of more appropriate USACE resources and funding can be made. District commanders will issue a Declaration of Emergency in order to implement their response operations authorities.

(1) The Declaration of Emergency may initially be verbal, but must be made in writing and reported in the district's SITREP within 24 hours of the declaration.

(2) Authority to issue a Declaration of Emergency is delegated to Deputy District Engineers, and all supervisors in the chain from the District Commander to the Chief of Emergency Management, inclusive. For purposes of a Declaration of Emergency, "Chief of Emergency Management" includes an acting Chief of Emergency Management. District commanders may withhold authority to issue a Declaration of Emergency, either by written correspondence, or via a published OPLAN.

**4-5. Post Flood Response.** Following floods, hurricanes, or coastal storms, but *prior to* a Presidential declaration pursuant to the Stafford Act, USACE may provide Post Flood Response assistance. A Declaration of Emergency is required.

a. **Limitation of Activities.** Post Flood Response activities are limited to actions to save lives and protect improved property (e.g., public facilities/services, and residential or commercial developments).

b. **Limitation of Scope of Post Flood Response.** Post Flood Response activities are limited to major floods, hurricanes, and coastal storms.

c. **Debris Clearance - Transportation Routes.** Clearance of debris from transportation routes is permitted when it is required to prevent loss of life or significant damage to public property, as determined by the MSC or district commander. Clearance of debris may be undertaken to reopen critical transportation routes, e.g., for emergency vehicles and access to medical facilities. Debris removal (i.e., movement of the debris to a disposal area or dump) will not be undertaken under Post Flood Response.

d. **Debris Clearance - Blockage.** Clearance of debris blocking critical water intakes, sewer outfalls, etc., may be undertaken.

e. **Debris Clearance - Water Courses.** Clearance of drainage channels, bridge openings, or structures blocked by flood-deposited debris may be undertaken if critical for the restoration of public services and access, public safety, or to prevent further significant damages.

f. **Restoration of Transportation.** Restoration of critical transportation routes, public facilities, and public services may be undertaken.

g. **Limitation of Assistance.** Assistance to individual homeowners and businesses (to include agricultural property) is not permitted.

h. Coordination Requirement. All potential work must be coordinated by the MSC or district with the appropriate FEMA region prior to execution of the work.

i. Governor's Request. A written request for Post Flood Response from the governor to the district commander will be provided concurrently with or immediately after the governor's request to FEMA for a disaster declaration under the Stafford Act. This request must:

- (1) Indicate that the recovery work is beyond the capability of the state to accomplish;
- (2) Identify specific damage locations; and,
- (3) Detail specific requirements for USACE assistance.

j. The Ten Day Rule. USACE assistance may be provided for a maximum of ten (10) days from the date of receipt of the governor's request for assistance. Subsequent requests for additional assistance resulting from the same disaster will not extend the 10-day period or trigger a new 10-day period. No work, including contract work, shall be performed after the 10-day period expires. No work shall be initiated subsequent to a Presidential disaster declaration. No work shall be initiated after denial of such a request for a declaration.

k. Types of Assistance. Post Flood Response assistance may be technical assistance and/or direct assistance.

(1) Prior to providing any Post Flood Response technical assistance, the providing district must notify its higher headquarters that technical assistance will be provided.

(2) Prior to providing any Post Flood Response direct assistance by contract, HQUSACE approval is required. Direct assistance shall be limited to alleviation of life threatening situations.

l. All Post Flood Response direct assistance activities require a CA. See EP 500-1-1, Chapter 4, Figure 4-3, for the CA format.

m. No data collection efforts of any kind are permitted under Post Flood Response.

**4-6. Funding.** ER 11-1-320 prescribes funding procedures for activities under PL 84-99. When Emergency Operations - Response Operations activities are initiated, appropriate funds must be immediately requested in accordance with ER 11-1-320. FCCE funding for flood fights is normally applicable only to those projects for which the public sponsor has full operation and maintenance responsibility, regardless of a project's status in the RIP.

a. Corps Operated and Maintained Flood Damage Reduction Projects. For a project that is funded with USACE Operations and Maintenance, General (O&M Gen) funds, emergency work will be funded using project funds. If project funds are not adequate to fund the emergency work, then Class 210 funding can be requested as a last resort to undertake the emergency work required. Project funds available at a later date will be used to reimburse FCCE funds expended during the operation.

b. USACE-Funded Flood Damage Reduction Projects Under Construction. Emergency work on USACE projects under construction is to be funded from project funds. If the legal limitation on expenditure of funds is or may be reached, then Class 210 funding can be requested, as a last resort, to undertake the emergency work required.

**4-7. Reporting.** Reporting will be done as addressed in Chapter 4, Section V, EP 500-1-1, or as modified by HQUSACE.

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## CHAPTER 5 REHABILITATION AND INSPECTION PROGRAM (RIP)

### *Section I - General*

**5-1. Rehabilitation and Inspection Program.** The RIP is the USACE program that provides for inspections of FCW's, the rehabilitation of damaged FCW's, and the rehabilitation of Federally authorized and constructed hurricane or shore protection projects (HSPP).

**5-2. RIP Policy.** USACE may rehabilitate FCW damaged or destroyed by flood, and Federally authorized and constructed hurricane or shore protective structures damaged or destroyed by wind, wave, or water action of an other than ordinary nature. This assistance may be provided subject to the policy of Chapter 2, and the policy, criteria, and conditions of this chapter. All aspects of work related to rehabilitation of damaged flood control works and HSPP's are to be addressed using all available methods of urgency, exigency, and expediency, consistent with providing responsive, cost effective assistance. Contracts for repair of damaged FCW's will be awarded within 60 days of project approval, or, if the equipment rental method of repair is used, then the repair work must be initiated within 60 days of project approval. Any exception to this 60-day time frame must be approved by the MSC, and reported via SITREP. See paragraph 5-20.j. for time frames for HSPP Rehabilitation Assistance.

a. Rehabilitation Assistance and Active Status. Rehabilitation Assistance is limited to Federal and non-Federal FCW's, and Federally authorized and constructed HSPP's, that are in an Active status in the RIP at the time of the hurricane, storm, or flood event and which are damaged by floods, hurricanes, or coastal storms. See paragraph 5-6 below for information on Active status. No flood control project deemed to be in an unacceptable condition (e.g., for severe deficient maintenance, or unsound engineering) will be placed in an Active status. No flood control project will be placed in an Active status if the public sponsor does not have apparent intent or capability to adequately maintain the project.

b. Rehabilitation Assistance Scope. Rehabilitation Assistance is limited to repair or restoration of an FCW to its pre-disaster condition and level of protection (e.g., the actual elevation of the levee, allowing for normal settlement.)

(1) Improvements to design and equipment (e.g., geomembranes) that are a result of state of the art technology, and are commonly incorporated into current designs in accordance with sound engineering principles, are permissible, and are not considered betterments.

(2) Increasing the cross section (but not the height) of a levee is not considered a betterment if the increase is considered to be reasonable and necessary.

c. Rehabilitation Assistance Not Permitted. Structures built for channel alignment, navigation, recreation, fish and wildlife, land reclamation, drainage diversion, or to protect against land or shoreline erosion or salt water intrusion are not FCW's, and are not permitted Rehabilitation Assistance. Section 32 streambank erosion demonstration projects are not permitted Rehabilitation Assistance.

d. Damage from Other Than Floods and Coastal Storms. FCW's damaged by occurrences other than floods, hurricanes, or coastal storms (e.g., non-flood disasters such as earthquakes or volcanic eruptions) are permitted RIP Rehabilitation Assistance. In such instances, HQUSACE approval is required prior to initiation of the PIR, and project approval authority will be at HQUSACE level.

e. Bank protection works, river control structures, or other projects constructed by USACE (to include Section 14 projects and specifically authorized bank protection projects) are not eligible to receive Rehabilitation Assistance. Exceptions may be granted by HQUSACE on a case-by-case basis. No FCCE funds will be expended investigating potential exceptions without prior approval from HQUSACE. The project approval process of this chapter and EP 500-1-1 will be followed for exceptions when approved. For exceptions to be considered:

(1) No other repair authority may exist.

(2) There must be a significant Federal interest in restoring the project. Mere construction of the project by USACE, ongoing maintenance by the public sponsor, and/or existence of a PCA does not constitute significant Federal interest. Significant Federal interest includes a favorable determination that the structure would likely be constructed as a new project under contemporary USACE criteria for a similar type of project.

(3) Rehabilitation must be beyond normal Operation, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R) provisions for which the project was designed and agreed to in the PCA executed between USACE and the public sponsor.

f. Poor Maintenance. Rehabilitation Assistance will not be provided to an FCW that, as a result of poor maintenance, has deteriorated to the point that substantial reconstruction is required.

g. Deficient or Deferred Maintenance. If deficient or deferred project maintenance is outstanding when damage to an FCW occurs, then the deficient and deferred maintenance will be accomplished by or at the expense of the public sponsor, either prior to or concurrently with approved Rehabilitation Assistance. When work accomplished by USACE corrects

accumulated deferred or deficient maintenance, the estimated deferred maintenance cost will be borne by the public sponsor and paid prior to the start of actual project rehabilitation. This work will not be creditable toward the sponsor's cost share.

h. **Alternative Plans.** In providing Rehabilitation Assistance, alternative plans (e.g., levee setback, revetments, bulkheads, or sea walls) for providing equivalent protection by an FCW will be developed and compared on a technical and economic basis. Any increase in Federal cost resulting from a public sponsor's preference of any alternative, other than the one that is least expensive to the Federal Government when all Federal costs are included, will be borne by the public sponsor.

i. **Design and Construction Deficiencies.** Rehabilitation Assistance will not be used to correct design or construction deficiencies of existing projects constructed by USACE, except as a last resort emergency measure to protect human life.

j. **Deliberate Levee Cuts.** Repair of deliberate levee cuts is a public sponsor responsibility. It will be accomplished at non-Federal expense, except in cases where the cut was made in accordance with paragraph 4-3.h.

k. **Rehabilitation Assistance at Military Installations.** FCW Rehabilitation Assistance on military installations will not be accomplished under PL 84-99. Rehabilitation work at military installations may be provided under 10 U.S.C. 2854 or other applicable authorities.

l. **Channel Projects.** Restoration of channel improvement projects to pre-flood hydraulic capacity is permitted under PL 84-99 when floodwaters have deposited debris and silt such that the channel capacity has been decreased to 75 percent or less of the pre-flood capacity. Removal of normal or annual siltation will not be funded using FCCE funds, as this is a normal sponsor O&M responsibility.

m. **Loss of Vegetative Cover.** When loss of vegetative cover is a direct result of the flood event, to include those losses caused by prolonged inundation, use of FCCE funding for revegetation is appropriate. Areas outside of structural damage should be evaluated based on the threat to the structural integrity of the unit, the probability of natural revegetation, and past maintenance practice. The possibility of natural revegetation will always be considered as the primary option for revegetation.

n. **Modification Limitation.** Rehabilitation Assistance will not be used to modify an FCW to increase the degree of protection or capacity, to provide protection to a larger area, or to correct deficiencies in the project.

o. Betterments. Betterments wanted and paid for by the public sponsor may be accomplished provided they are related to the basic rehabilitation project and they can be accommodated in the construction of the basic rehabilitation project. Betterments are funded 100 percent by the public sponsor. The costs of such betterments will not be included in the rehabilitation project cost or economic evaluation. For informational purposes only, betterment costs will be included with cost estimate data.

p. Dewatering. Only dewatering costs incurred by a Corps contractor that are associated with actual repair activities are eligible for Corps funding. Dewatering for other purposes (e.g., to return agricultural land to production) is the responsibility of the public sponsor, and is not eligible for Corps funding.

q. Minimum Required Construction Cost. If the estimated construction cost (not including contingency amounts, or E&D or S&A amounts) to repair damages to an FCW is less than \$15,000, then no Rehabilitation Assistance is permitted. The repair will be mandatorily categorized as sponsor maintenance, and will be the public sponsor's O&M responsibility to repair. Determination of the estimated construction cost is made without regard to any cost sharing requirements.

r. Benefit Cost Ratio. Rehabilitation Assistance projects must have a favorable BCR (i.e., > 1.0) in accordance with the Principles and Guidelines contained in Chapter 6, ER 1105-2-100, regarding National Economic Development (NED) Benefit Cost Analysis.

s. Projects with Multiple Public Sponsors. For each hydrologically independent FCW project with multiple public sponsors, the entire FCW must meet all RIP provisions to be eligible for Active status and for Rehabilitation Assistance. It is the responsibility of the multiple public sponsors, and not of USACE, to coordinate all necessary sponsor actions, responsibilities, and obligations under the RIP.

t. Haul Roads. Haul road restoration activity is an acceptable cost under authorized PL 84-99 activities when Corps activity has degraded the haul road's condition from the condition that existed immediately prior to the beginning of the Corps activity.

(1) All contracts for floodfight efforts or rehabilitation efforts will contain the following clause, or wording that is similar in spirit and intent: "The contractor shall preserve and protect all existing private access roads, haul roads, and/or right-of-way roads. At completion of the work and prior to the contractor leaving the project/work site, the contractor shall restore to pre-project conditions all such roads at its own expense. Restoration/repair efforts shall include replacement of base rock and/or surface treatment as required."

(2) When administering floodfight or rehabilitation contracts with the haul road restoration clause, the responsible district will be diligent in recording and documenting the pre-project

condition of the haul roads to be used. Documentary evidence will include a statement or record addressing the overall condition of the haul road, and photographs and/or videotape of the haul road. For floodfight activities that begin in the hours of darkness, all efforts will be made to record haul road conditions as soon as weather/light conditions allow.

(3) Haul road restoration activity is not intended to restore the haul road to its original design standard, or to the "acceptable" standard set forth for non-Federal levees in EP 500-1-1. It is, instead, intended to restore the haul road to its pre-project condition. Proper stewardship of funds will be exercised, e.g., if a floodfight operation caused additional gravel to be placed on the levee crown road to provide an adequate bearing surface for haul vehicles, then the restoration effort would likely consist of a limited amount of grading, but not gravel removal. Districts will exercise good judgment in requiring haul road restoration when the levee rehabilitation effort will occur shortly after the floodfight effort is completed.

(4) For repairs done by equipment rental contracts or Corps force labor accounts, the responsible district will ensure that its actions are in accord with the contract requirements specified above.

u. Debris Detention Basins. Debris detention basins, if a designed and integral component of a flood control project, may be rehabilitated for damages caused by a flood event. However, removal of accumulated debris is the public sponsor's O&M responsibility, and is not eligible for Rehabilitation Assistance.

v. Standard Limits for Costs.

(1) For construction contracting using PL 84-99 funds, contingency amounts are limited in order to allow HQUSACE maximum flexibility to address new emergencies. For dredging contracts, the maximum allowable contingency percentage is 15 percent of the construction cost of the project. For all other types of contracts, the maximum allowable contingency percentage is 10 percent of the construction cost of the project.

(2) E&D costs for projects where the construction cost is less than \$100,000 are limited to a maximum of 10 percent.

(3) E&D costs for projects where the construction cost is greater than \$100,000 are limited to a maximum of six percent, or \$11,000, whichever is greater.

(4) S&A costs for projects where the construction cost is less than \$100,000 are limited to a maximum of 10 percent.

(5) S&A costs for projects where the construction cost is greater than \$100,000 are limited to a maximum of six percent, or \$11,000, whichever is greater.

(6) Should circumstances merit higher amounts for E&D and/or S&A, then justification will be included in the initial funding request, or with a supplemental funding request.

**5-3. Eligibility for Inclusion in the RIP.**

a. General. Eligibility for inclusion in the RIP specifies the broad categories of FCW's that can be admitted into the RIP. Eligibility for inclusion implies no obligation on the part of USACE or on the part of the public sponsor. The following types of FCW are eligible for inclusion in the RIP:

(1) Federally authorized and constructed HSPP's.

(2) Federally constructed, locally maintained levees and floodwalls.

(3) non-Federally constructed, locally maintained levees and floodwalls that provide a minimum of a 10-year level of protection with 2 feet of freeboard to an urban area, or a minimum of a 5-year level of protection with 1 foot of freeboard to an agricultural area.

(4) Federally constructed, locally maintained flood control channels.

(5) non-Federally constructed, locally maintained flood control channels that provide a minimum of a 10-year level of protection. [NOTE: Interior drainage channels within the protected area of a levee system are not flood control channels.]

(6) Pump stations integral to FCW.

(7) Federally constructed, locally maintained flood control dams.

(8) non-Federally constructed, locally maintained flood control dams.

b. Ineligible Categories. The following categories of FCW are ineligible for inclusion in the RIP:

(1) Structures built for channel alignment, navigation, recreation, fish and wildlife, land reclamation, bank protection, or drainage diversion. Structures built to protect against land or shoreline erosion. Structures built to protect against salt-water intrusion.

(2) Those FCW operated and maintained by USACE or other Federal agencies. This category includes those FCW operated with USACE Operations and Maintenance, General funds, and FCW funded with Mississippi River and Tributaries funds.

(3) USACE or other Federal agency projects uncompleted or under construction.

(4) Any non-Federal FCW under construction.

(5) Projects built by USACE under authority of Section 32 of the Streambank Erosion Control Evaluation and Demonstration Act of 1974.

(6) Those FCW constructed, modified, or repaired with financial assistance from other Federal agencies (e.g., Bureau of Reclamation, FEMA, and Natural Resources Conservation Service), unless exceptions are granted by HQUSACE.

(7) Secondary levees, unless they protect human life.

(8) Channel-type FCW with a drainage area less than 1.5 square miles, or a capacity less than 800 cfs.

(9) Any levee (other than a ring levee that provides 360 degrees of protection) that is not tied to high ground at each end of the levee. High ground may be natural (e.g., a bluff, a hill, or a slope) or constructed (e.g., a highway bridge or overpass embankment, an elevated roadway, or a floodwall.)

#### **5-4. Funding.**

a. Inspections. Funding for Initial Eligibility Inspections (IEI's), and Continuing Eligibility Inspections (CEI's) for non-Federal FCW's, will be in accordance with ER 11-1-320. Funding for the maintenance inspections (CEI's) of Federal FCW will be O&M, General, 96x3123.

b. FCW Rehabilitation Investigations and Rehabilitation Work. These activities will be funded in accordance with ER 11-1-320.

c. FCW Database Management. FCW Database management is a primary and inherent emergency management responsibility. Funding for management of the FCW Database is provided for under the annual Class 380 allocation.

### **Section II - Administration of the RIP**

**5-5. RIP Establishment and Maintenance.** Districts will establish and maintain a RIP in accordance with this chapter and EP 500-1-1. The RIP includes the establishment and maintenance of an automated FCW database for FCW's, the performance of Initial Eligibility Inspections (IEIs) for non-Federal FCW's, the performance of Continuing Eligibility Inspections (CEI's) for FCW's, and rehabilitation of damaged FCW.

a. FCW Database. Districts will establish and maintain an automated FCW Database of all known FCW's, Federal and non-Federal. The FCW Database will include the information listed in EP 500-1-1 for all Federal projects, all non-Federal Active projects, and for previously Active but currently Inactive projects. The FCW Database will include as much information as is available for Inactive projects. A nationwide levee database is being developed. Refer to EP 500-1-1, paragraph 5-3, for procedures regarding the FCW Database.

b. Inspection Process. Refer to EP 500-1-1, paragraph 5-5, regarding general information on the USACE inspection methodology, rating codes, project condition codes, and related items for RIP inspections.

(1) Non-Federal FCW.

(a) Request for IEI. The public sponsor of an Inactive non-Federal FCW may request an IEI for the purpose of becoming Active in the RIP. Funding for IEI's will be requested from HQUSACE on an as needed basis.

(b) IEI's. The IEI will consist of an on-site inspection of the FCW using the Inspection Guide in EP 500-1-1, Appendix A. The IEI will be used to establish the acceptable and minimum performance levels for non-Federal FCW to gain an Active status in the RIP. IEI's will be conducted by technical staff experienced in FCW design, construction, maintenance, and damage investigations.

(c) First CEI After IEI. The first CEI following the IEI will be accomplished within two years after Active status is attained, or after the sponsor has notified the district that all minimally acceptable ratings have been upgraded to an acceptable level, whichever is earlier.

(d) CEI's. CEI's will normally be conducted biennially for non-Federal FCW. For sponsors of projects with historically good ratings, the district may extend the frequency of inspection to a triennial basis. Districts will conduct CEI's using the Inspection Guide in Appendix A, EP 500-1-1 for all non-Federal FCW's in an Active status. A project condition code (in accordance with paragraph 5-5, EP 500-1-1) will be given for each CEI conducted.

(2) Federal FCW's.

(a) IEI's. IEI's are not conducted on Federal FCW's. Federal FCW's are considered to be in an Active status when the Corps turns over the project to the public sponsor for operation and maintenance.

(b) CEI's. CEI's will be conducted at least biennially for Federal FCW, unless ER 1130-2-530 permits a longer period. The CEI is used to verify that the FCW continues to meet minimum acceptable performance levels for the RIP. Districts will conduct CEI's using the



Inspection Guide in EP 500-1-1, or in accordance with ER 1130-2-530. A project condition code (in accordance with paragraph 5-5, EP 500-1-1) will be given for each CEI conducted.

c. Reporting Results of Inspections.

(1) IEI's. Results of IEI's will be provided to the public sponsor within 30 days of the inspection. The district will prominently note that Marginally Satisfactory item(s) must be upgraded to Satisfactory within no more than three years. The district should consider notifying the FEMA Region, the state emergency management agency, and the local level (e.g., county) emergency management agency of inspection results. These notifications may be done on an inspection by inspection basis, or via a consolidated report covering multiple inspections.

(2) CEI's. Results of CEI's will be provided to the public sponsor within 30 days of the inspection. FCW's that have undergone a CEI with a project condition code of Acceptable or Minimally Acceptable will retain an Active status in the RIP. The district will prominently note that Marginally Satisfactory items must be upgraded to Satisfactory within a period of not more than two years. As an exception to this, if the CEI is within the three-year grace period of the IEI that resulted in a project condition code of Minimally Acceptable, then the public sponsor will have the original IEI three year period, but no additional time, to upgrade the Marginally Satisfactory items from the IEI.

(3) An FCW that receives a project condition code of Unacceptable is immediately placed in an Inactive status. See paragraph 5-8.

(4) When an Active FCW changes to Inactive status because of an Unacceptable condition on a CEI, in addition to notifying the public sponsor, the district will notify the state emergency management agency and the local level (e.g., county) emergency management agency. The purpose of these notifications is to ensure that the responsible emergency management officials are aware that the Inactive flood control project will no longer provide a reliable level of protection against flooding, and the agencies may need to review or adjust their emergency response plans. These notifications may be done on an inspection by inspection basis, or via a consolidated report covering multiple inspections, and may include both IEI and CEI.

(5) When a levee that has been certified for the National Flood Insurance Program receives a project condition code of Unacceptable, the district will notify the MSC in writing. The MSC will notify the appropriate FEMA region of the Unacceptable condition.

d. Eligibility Disagreements. If a public sponsor disagrees with an Unacceptable condition given by USACE for an IEI or CEI, the district will inform the sponsor of its right to submit a reclama. The reclama must include pertinent engineering data. Validation of or comment on the reclama by a responsible Professional Engineer is preferable, but not mandatory, at the

public sponsor's option. If the district stands by its original decision after considering the reclama, the district will notify the sponsor in writing of why it rejects the reclama, and advise the sponsor of its right to appeal to the Division Engineer.

(1) Districts and MSC's will submit appeals up to the Chief, Operations Division, HQUSACE. The decision at USACE Headquarters will be considered final.

(2) If the sponsor's reclama is upheld on appeal, then the FCW will return to an Active status. Any damage incurred by the FCW during the reclama/appeal process will be eligible for Rehabilitation Assistance (assuming all other criteria are met) if the appeal is upheld.

e. Information for Sponsors of Inactive FCW. Districts will be proactive in providing information to sponsors of Inactive FCW concerning upgrading their projects in order to become Active in the RIP. This includes providing Levee Owner's Manuals.

**5-6. Active Status.** Only those FCW in an Active status at the time of the flood or storm event may receive Rehabilitation Assistance under authority of PL 84-99. A project is considered Active if it has a public sponsor, and meets one of the following:

a. Is a non-Federal FCW that has:

(1) Received an IEI by USACE, with a project condition code of Acceptable or Minimally Acceptable, and,

(2) Received a project condition code of Acceptable or Minimally Acceptable on the latest CEI.

b. Is a non-Federal FCW that was damaged in a flood, but has a valid written request from the public sponsor requesting an IEI on file at the responsible district headquarters that was received prior to the flood event, but for which the IEI had not been performed by USACE. Projects in this category will be given an IEI, and must be subsequently determined to meet all eligibility requirements needed for Active status in order to be placed in an Active status and be eligible to receive Rehabilitation Assistance. Sound engineering judgement and reasonable extrapolations will be applied when inspecting and evaluating the damaged levee.

c. is a Federally constructed, locally maintained FCW that met acceptable ICW maintenance standards during the latest CEI.

d. is a Federally authorized and constructed HSPP that met acceptable ICW maintenance standards during the latest ICW inspection.

**5-7. (Reserved.)**

**5-8. Inactive Status.** Any FCW eligible for inclusion in the RIP (see paragraph 5-3) that is not in an Active status is considered to be in an Inactive status. Inactive status includes any FCW that was previously in an Active status, but was removed from Active status by USACE because of reasons such as receiving a project condition code of Unacceptable on a CEI, dissolution of the public sponsor, or withdrawal of sponsorship by the public sponsor. Inactive FCW will not receive PL 84-99 Rehabilitation Assistance. FCW remain in an Inactive status until receiving a project condition code of Acceptable or Minimally Acceptable on an IEI.

### **Section III - Rehabilitation Assistance**

#### **5-9. Actions After Occurrence of a Flood Event.**

a. Notice to Public Sponsors. District commanders will issue a Notice to Public Sponsors immediately after significant flood events to alert public sponsors of Active projects that a submittal deadline is in effect for USACE assistance to repair damaged FCW under PL 84-99. The submittal deadline will be 30 calendar days from the date the floodwaters recede to bankfull. For special conditions, MSC commanders may extend the deadline for an additional 30 days. The format is provided in EP 500-1-1, Chapter 5, Figure 5-2.

b. Project Information Reports (PIR's). PIR's for Rehabilitation Assistance will be prepared in accordance with EP 500-1-1, paragraph 5-11.

(1) Benefit to Cost Ratio. The BCR must be greater than 1.0 for the PIR to be approved.

(2) PIR Approval Authority. The approval authority for Rehabilitation Assistance PIR's is the Division Commander. The Division Commander may delegate approval authority to a member of the Senior Executive Service on the division staff, or a permanently designated Deputy Division Engineer. Further delegation of authority to approve PIR's is not permitted.

c. Interagency Process for Nonstructural Alternatives. The intent of this interagency process is to allow those agencies with programs for nonstructural alternatives to repairing levees the opportunity to work with public sponsors who may wish to consider a nonstructural alternative. When needed, an Interagency Levee Task Force (ILTF), headed by USACE, will be implemented. (See paragraph 5-24 for additional information regarding the ILTF.) To implement the interagency *Federal Levee Policy*, MSC's will notify other Federal agencies, such as the Natural Resources Conservation Service (NRCS) and the U.S. Fish and Wildlife Service, of all applications for Rehabilitation Assistance being processed by USACE.

d. General Procedures. For general procedures to be followed after occurrence of a flood event, refer to EP 500-1-1, Chapter 5, Section III.

#### **5-10. Cooperation Agreements.**

a. Non-Federal FCW's. Prior to USACE providing Rehabilitation Assistance for FCW's, a CA will be executed between the public sponsor and USACE. The CA for Rehabilitation Assistance is provided in EP 500-1-1, Appendix B, Figure B-1.

b. Federal FCW's. A CA is generally not used for Rehabilitation Assistance on a Federal FCW, because Federal projects have a Project Cooperation Agreement (PCA) from the original construction of the project. In lieu of a CA, the district will notify the public sponsor of its requirements (e.g., normal a-b-c's) via memorandum. In the event that no PCA exists from the original construction, or no PCA was executed when a non-Federal FCW was declared to be a Federal FCW through Congressional Act, or the original PCA does not adequately cover required aspects of the current rehabilitation effort, then a CA is required. The CA for Rehabilitation Assistance is provided in EP 500-1-1, Appendix B, Figure B-2.

#### **5-11. Cost Share Determination.**

a. Cost Sharing Percentages. Rehabilitation of non-Federal projects will be cost shared at 80 percent Federal and 20 percent from the public sponsor for cost sharable items. Rehabilitation of Federal projects will be at 100 percent Federal cost for cost sharable items. See paragraph d. below for cost sharable items.

b. USACE Costs. USACE will fund, at 100 percent Federal cost, costs associated with the preparation and approval of PIR's, and engineering and design costs for approved projects. USACE costs will also include updating O&M Manuals for Federal projects to reflect changed conditions due to the rehabilitation effort.

c. Public Sponsor Costs. The public sponsor is responsible for providing certain items at 100 percent local cost. These items do not constitute credit towards the public sponsor's local cost share. Public sponsor costs include:

- (1) any costs associated with normal a-b-c's.
- (2) accomplishment of normal or deferred or deficient maintenance items.
- (3) any betterments to the project.

d. Cost Sharable Items. Cost sharable items include construction costs, supervision and administration (S&A) costs, and contingency costs for construction.

e. Exceptions to Normal Cost Sharing and Cost Sharable Items. Under certain circumstances, cost sharing, USACE costs, and cost sharable items (subparagraphs a., b., and d., above), will be modified as follows:

(1) Transportation of borrow material from the closest acceptable borrow source (as determined by USACE) is a cost sharable item. Increased (incremental) transportation costs of borrow material not from the closest acceptable borrow source (as determined by USACE) will be borne 100 percent by the public sponsor. These incremental costs are not creditable toward the public sponsor's cost share.

(2) As an exception to paragraph b. above, cost sharing for PIR's and engineering and design work is required under the following conditions:

(a) Once a Project Information Report is approved, any additional investigation costs or E&D costs incurred because of a sponsor-requested change to the scope of work, FCW alignment, or similar items will be cost shared at 50 percent Federal cost and 50 percent local cost. If the sponsor-requested change results in a lower overall Federal cost, then the Federal cost share will revert to 100 percent.

(b) Once a PIR has been approved, any additional project costs incurred because of a public sponsor's inability or unwillingness to sign the CA (regardless of the reason leading to the inability or unwillingness) within a reasonable time will be cost shared at 50 percent Federal and 50 percent local. A "reasonable time" is defined as 30 days, absent extraordinary circumstances.

(3) If the public sponsor prefers an alternative method of repair that is not the least cost to the Federal government alternative, the public sponsor shall pay 100 percent of the additional costs above the least cost alternative.

f. Manner of Contribution. The local cost share contribution may be cash, work in kind, or a combination of these.

(1) Work in kind consists of labor, equipment, supplies, and/or services provided by the public sponsor. Labor is defined as blue collar-type work normally paid on an hourly wage basis, comparable to Federal Wage Grade positions.

(2) Credit for accomplishment of work in kind is determined by the estimated cost for USACE to perform or contract for the same work. When determining work-in-kind effort, public sponsors will not to be penalized for contracting or work efficiencies.

(3) Work in kind done by the public sponsor will be inspected by USACE to ensure it conforms to USACE requirements.

g. Use of Funds from Other Federal Agencies. A public sponsor may use funds from other Federal agencies to meet its local cost share, provided the granting Federal agency confirms in writing that use of such funds is not prohibited by law.

h. Final Accounting. Upon project completion, a final accounting will be performed to determine proper payment of the local cost share. Any work in kind performed will be credited first, and then cash payments will be credited. If the actual amount of the local share exceeds 20 percent, then any cash payments above the 20 percent level will be refunded to the public sponsor, in accordance with ER 11-1-320. No reimbursement for work-in-kind in excess of 20 percent is authorized.

#### **5-12. Special Circumstances for USACE Constructed FCW.**

a. Design/Construction Deficiencies. Policy on correction of design and/or construction deficiencies at USACE-constructed, locally operated and maintained projects is set forth in ER 1165-2-119. It states that work to correct design or construction deficiencies may be recommended for accomplishment under existing project authority without further Congressional authorization, if applicable requirements are met. Deficiencies will not be corrected with FCCE funds, except as a last resort emergency measure to protect human life.

b. Changed Conditions. In instances where the need for project modification is due to changed physical condition since project construction, the project should be reviewed under the authority of Section 216 of the 1970 Flood Control Act, or other appropriate study authority.

Where appropriate, necessary Congressional authorization should be pursued to correct problems with the project. Deficiencies due to changed conditions will not be corrected with FCCE funds.

#### **5-13. Environmental Considerations.**

a. General. Most rehabilitation projects fall under the exemptions contained in 33 CFR 323.4 or are permitted by Nationwide Permit Number 3 (NWP 3) (Maintenance) or by NWP 31 (Maintenance of Existing Flood Control Activities). Regional General Permits issued by District Commanders may also allow for certain maintenance or repair activities. For work not so exempted or permitted by general permits, the standard permit evaluation will be followed unless the MSC Commander approves the use of emergency procedures, in accordance with 33 CFR 325.2(e)(4), based on a determination that normal procedures will result in an unacceptable hazard to life, a significant loss of property, or an immediate and significant economic hardship.

(1) NWP 3 authorizes the repair, rehabilitation, or replacement of previously authorized and currently serviceable structures or fill under the authorities of both Section 404 and Section 10 of the Rivers and Harbors Act of 1899.

(2) NWP 31 authorizes the maintenance of existing flood control facilities (including debris basins, detention/retention basins, and channels), that were previously authorized by the Corps by Individual Permit, General Permit, by 33 CFR 300.3, or did not require a permit at the time it was constructed, or were constructed by the Corps and transferred to a non-Federal sponsor for operation and maintenance (i.e., a Federal project).

(3) Section 404(f)(1) of the CWA, as implemented by 33 CFR 323.4(a)(2), specifically exempts routine maintenance of levees (which includes tree cutting and tree root removal) from the requirement to obtain a Department of the Army (DA) Permit, pursuant to Section 404. This exemption is applicable to all levees constructed before 1972, and to those levees that were constructed since that date, that required and received DA Permits for construction. It is assumed that any non-Federal levee that is Active in the RIP has been appropriately investigated and determined to be in compliance with applicable provisions of the CWA, and has received the necessary permits for construction.

(a) The routine maintenance exemption applies only within the physical limits of the levee.

(b) The requirements for (and exemptions from) DA Section 404 Permits apply only to those levees involving work within the waters of the United States (U.S.) (as defined at 33 CFR Part 328).

(c) Levees (or sections of levees) that are not within the waters of the U.S. do not require DA approval, either under Section 404 or Section 10.

(d) Other permits (e.g., from a State Fish and Wildlife Agency) may be required regardless of the need for a DA permit.

(e) Levee maintenance does not include any modification that changes the character, scope, or size of the original fill design for the levee.

(4) Some local jurisdictions have passed laws and ordinances prohibiting tree cutting or tree root removal. ER 500-1-1, in implementing 33 CFR Part 203 and Public Law 84-99, takes precedence over state and local laws and ordinances addressing this matter. This situation applies even when the public sponsor is performing (or contracting for) this work on a non-Federal levee.

(5) Mechanized tree and root removal within nonstructural channels may require authorization under Section 404 and/or Section 10.

(6) EM 1110-2-301, Guidelines for Landscape Planting at Floodwalls, Levees, and Embankment Dams, provides criteria for the design of landscape plantings at levees. Refer to this manual for guidance on root-free and vegetation-free zones.

b. Water Quality. If the processing of an individual DA Permit is required, a Section 401 Water Quality Certificate, or waiver thereof, must be obtained from the state, if a DA Section 404 discharge is involved. District commanders will establish reasonable periods of time for states to act on 401 certification requests in accordance with 33 CFR 325.2(b)(1)(ii) and will seek to obtain advance 401 certification from states to cover emergencies.

c. Coastal Zone Management. District commanders will develop procedures with those states having approved Coastal Zone Management (CZM) plans to ensure that those states complete their actions on CZM certifications as quickly as possible.

d. Inclusion in Operation Plans. The procedures developed to implement subparagraphs b. and c. above will be included in the MSC and District Operation Plans for disasters. Similar procedures will be arranged with states that have assumed control of the Corps Section 404 permit program through transfer.

e. Environmental Assessment. An environmental assessment will be made of actions to be taken on each approved project. Guidance provided in paragraph 2-3.k. will be followed.

f. Executive Order 11988. The provisions of EO 11988 are normally not applicable to the rehabilitation of FCW to pre-disaster condition. However, a major rehabilitation project, one requiring extensive engineering and design and a significantly changed footprint, is to be evaluated for its impact on the floodplain. In those instances where the overall impacts of the project could be so adverse that restoration would be imprudent, repairs will be made only if the project protects human life and does not create a 1-foot increase in the floodway water surface elevation used to design the main levee. The repair of pump stations is not considered to be adverse and incompatible development of the floodplain, and should not affect approval of a Project Information Report.

g. Endangered Species Act. The Endangered Species Act procedures contained in 50 CFR Part 402 (Section 7) and in ER 1105-2-100, paragraph 7-33b.(10), will be implemented at the earliest possible moment, after the initial repairs have started, so as to avoid delays that could cause unacceptable risks to life or property.

h. National Historic Preservation Act. Section 106 of the National Historic Preservation Act of 1966 requires the Corps to take into account the effects of its undertakings on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings. The procedures defining how the Corps meets these



statutory responsibilities are contained in 36 CFR Part 800, "Advisory Council on Historic Preservation: Protection of Historic Properties." Specific procedures to be followed during a disaster or emergency are contained in section 800.12, "Emergency situations." MSC's and districts may develop, in consultation with the Advisory Council and others, standard procedures during a disaster and/or emergency; they may follow provisions of programmatic agreements that contain specific provisions for addressing historic properties in emergencies; or, in the absence of specific procedures, provide opportunities to comment as specified in section 800.12(b)(2). Procedures for processing Department of the Army Permits in emergency situations are described in 33 CFR Part 325.2(e)(4) and the treatment of historic properties in permit areas can be found in Appendix C of Part 325.

**5-14. Initial Repairs - Breached Levees.** In some circumstances, such as when a massive breach occurs and typical rehabilitation time would be significant, initial repairs may be justified. Initial repairs are intended to restore a minimum level of protection (normally a 10- to 25-year level of protection) to reduce the threat of recurrence of substantial damages to life and property, until such time as the standard rehabilitation process can be finished. Preparation of an Initial Repairs PIR requires CECW-OE concurrence. Approval authority for an Initial Repairs PIR is the Division Commander. See EP 500-1-1, paragraph 5-14.e. for additional information.

a. Justification for Initial Repairs. The following justification criteria for Initial Repairs have been developed. The closing of breached levee sections using Initial Repairs may be considered if:

(1) For Federal and non-Federal urban levees, the threat to life and property is considered greater than was present in the pre-flood condition.

(2) For Federal and non-Federal levees which protect predominantly agricultural areas but have one or more urbanized areas, the risk of flooding in the urbanized areas in the current (breached) conditions is greater than 5 percent (i.e., a 20-year or more frequent flood event would cause damages to properties in urban areas). A determination must be made that in the breached condition, actual physical damages in urbanized areas would be caused by the occurrence of a 5 percent chance flood event.

(3) For Federal and non-Federal agricultural levees, the breaches must be filled to drain crop lands and/or initiate land restoration.

(4) For Federal and non-Federal agricultural levees, the lands are likely to be returned to crop production by the next planting season, and,

(a) The cost of the initial repair is less than \$10 per acre; or,

(b) The current risk of substantial flooding to residential, commercial, public, and industrial properties is greater than 10 percent (10-year or more frequent flood event would cause damage to developed properties); or,

(c) The cost of the initial repair is less than \$50 per acre protected and the risk of flooding is greater than 20 percent chance (5-year or more frequent flood event would flood croplands.)

b. Compliance. Appropriate environmental compliance and Endangered Species Act procedures must be complied with, when applicable.

c. Completeness of the Action. All breaches in a continuous levee which affect the residual risks and other conditions specified in this paragraph must be filled and the costs included in the justification decision.

d. Economic Analysis. The economic analysis of the future permanent repair will be based on the costs and benefits of the *total repair* as measured by comparing the total cost of restoration (Initial Repairs plus final repair) to the economic benefits attainable had the initial repairs not been undertaken. Districts must include the initial repair costs in the overall economic analysis of the project when final repair costs are determined in the PIR. In deciding whether or not to effect an Initial Repair, the District and the public sponsor must be cognizant of the fact that undertaking an Initial Repair may preclude a permanent repair, if the BCR of the permanent repair is not met.

e. Need for PIR. An abbreviated PIR is used to document the necessity of an Initial Repair. See EP 500-1-1, paragraph 5-14, for the format to be used.

f. Risk of Flooding. As used in this paragraph, the term *risk of flooding* pertains to the risk of actual lands and properties being flooded, and not the level of protection afforded by the breached levee.

**5-15. Relief Wells.** Relief wells are components of many Active levee projects. Rehabilitation of relief wells, as part of an overall levee rehabilitation project, is necessary to maintain the integrity of the project. However, rehabilitation of relief wells by USACE should not accomplish work that should be the public sponsor's responsibility to perform. Allowable relief well costs for PL 84-99 rehabilitation projects are as follows:

a. Well Replacement and/or Cleanout. Well replacement and/or well cleanout is allowable if (1) the well was inundated, and (2) the damage to the well can be reasonably judged to have been caused by (a) flowing water, (b) floating debris impacting the well components, or (c) other reasonable causes, and *not* by an improperly functioning flap or lack of proper maintenance by the sponsor.

b. Housing. Repair or replacement of the housing is allowable if (1) the housing was inundated, and (2) damage can be reasonably judged to have been caused by the flood event.

c. Foundation and/or Drainage Problems. Repairs to the foundation and/or to correct drainage problems are allowable if (1) the well was inundated, and (2) damage can be reasonably judged to have been caused by the flood event.

d. Well Rehabilitation. Well rehabilitation is allowable if (1) the well was inundated, and (2) damage can be reasonably judged to have been caused by the flood event, and not by an improperly functioning flap.

e. Related Components. Repair or replacement of gaskets, bolts, washers, lids, standpipes, checkvalves, and similar components are a sponsor responsibility and not an allowable charge for Rehabilitation Assistance unless the well is eligible for cleanout (paragraph a. above), and it can be reasonably determined that the component was damaged by the flood.

f. Paint/Painting. Painting costs are not allowable except as incidental to other allowable charges.

g. Piezometer Repair or Replacement. Piezometer repair or replacement is an allowable rehabilitation cost.

#### **Section IV - Nonstructural Alternatives to Structural Levee Rehabilitation**

**5-16. Authority and Policy.** Under PL 84-99, the Chief of Engineers is authorized, when requested by the non-Federal public sponsor, to implement nonstructural alternatives (NSA's) to the rehabilitation, repair, or restoration of flood control works damaged by floods or coastal storms. The option of implementing an NSA project (NSAP) in lieu of a structural repair or restoration is available only to non-Federal public sponsors of FCW's eligible for Rehabilitation Assistance in accordance with this regulation, and only upon the written request of such non-Federal public sponsors.

a. Principal Purposes. The principal purposes of an NSAP are for floodplain restoration, provision or restoration of floodways; and/or reduction of future flood damages and associated FCW repair costs. [NOTE: Habitat restoration is recognized as being a significant benefit that can be achieved with an NSAP, and may be a significant component of an NSAP, but is not considered to be a principal purpose under this authority.]

b. Sponsor Requirement. A sponsor is required for an NSAP. The NSAP sponsor must be either a public sponsor as defined in paragraph 2 -3.r. of this regulation, or another Federal

agency. The NSAP sponsor must certify that it has the legal authority and financial capability to provide for the required items of local cooperation.

c. USACE and NSAP Management. The Corps will not be responsible for the operation, maintenance, or management of any NSAP implemented in under authority of PL 84-99.

d. Rejection of NSAP Consideration. The Corps may, in its sole discretion, reject any request for an NSAP which would lead to significantly increased flood protection or flood fighting expenses for public agencies, FCW sponsors, public utilities, or the Federal Government; or, threaten or have a significant adverse impact on the integrity, stability, or level of protection of adjacent or nearby flood control works; or, lead to increased risk of loss of life or property during flood events.

e. Responsibilities of the NSAP Sponsor. The responsibilities of the NSAP non-Federal sponsor are to operate and maintain the NSAP; provide, or arrange for and obtain, all funding required to implement the NSAP in excess of what the Corps provides; and to accept the transfer of ownership of any lands or interests in lands acquired by the Corps and determined by the Corps to be necessary to implement the NSAP.

f. Responsibilities of Other Federal Agencies Acting as NSAP Sponsor. The Corps may participate with one or more Federal agencies in NSAP's. If the Corps is the lead Federal agency, based on mutual agreement of the Federal agencies, then a non-Federal NSAP sponsor is required. If another Federal agency is the lead Federal agency, then Corps participation in the NSAP will be based on the content of this section, with appropriate allowances for effecting an NSAP in accordance with the authority and ultimate goal of the lead Federal agency. A Memorandum of Agreement with the other Federal agency(s) involved is required.

g. Responsibilities of the Requesting FCW Project Public Sponsor. The FCW project sponsor must request that the Corps undertake an NSAP in lieu of rehabilitation of the FCW, in accordance with the public sponsor's applicable laws, ordinances, rules, and regulations. If not also the NSAP sponsor, the FCW project sponsor must divest itself of responsibility to operate and maintain the FCW involved in the NSAP, and provide to the NSAP sponsor such lands or interests in lands as it may have which the Corps determines are necessary to implement the NSAP.

h. Cessation of Corps Participation. Corps participation in development and implementation of an NSAP may cease, at the sole discretion of the Corps, one year after the date of approval of rehabilitation of the damaged FCW or the date of receipt of the FCW public sponsor's request for an NSAP, whichever is earlier, if insufficient progress is being made to develop and implement the NSAP for reasons beyond the control of the Corps. In

such circumstances, the Corps may determine, at its sole discretion, that Rehabilitation Assistance for the damaged flood control project may also be denied.

i. **Non-Limitation of USACE Involvement.** Nothing in this section shall be construed to limit the participation of other Federal, State, tribal, local, and private agencies in the development, implementation, or future operations and maintenance of an NSAP, subject to the limitations of such participating agency's authorities and regulations.

j. **Further USACE PL 84-99 Assistance.** After assumption of the NSAP operation and maintenance responsibility to the NSAP sponsor or the lead Federal agency, the Corps will not provide any flood-related assistance anywhere within the formerly protected area of the FCW, except for rescue operations. As an exception, on a case-by-case basis, certain structural flood control works (or elements thereof) repaired or set back as part of the implementation of an NSAP having a non-Federal sponsor may be considered for future flood-related assistance. Normal RIP policies and procedures apply.

k. **Environmental Considerations.** NSAP's are subject to the same environmental requirements, restrictions, and limitations as are structural rehabilitation projects. See paragraph 5-13.

l. **Reimbursement for Acquisition of Land.** For the acquisition of land, interests in land, easements, and rights of way for an NSAP, reimbursement may be made to the non-Federal sponsor of the NSAP. Such reimbursements are subject to the normal Corps land acquisition process, funding caps set forth in paragraph 5-17, and availability of appropriations.

m. **Combining Land Acquisition Funding.** For the acquisition of land, interests in land, easements, and rights-of-way, Corps funding may be combined with the funding of other Federal agencies, absent specific statutory language or principle prohibiting such combinations, under the terms of an MOA with another Federal agency.

#### **5-17. Funding for NSAP's.**

a. **Cost Share Principle.** There is no set percentage for the Federal share or local cost share for an NSAP. The Corps may bear up to 100 percent of the costs for an NSAP, subject to the limitations set forth in paragraph 5-17.b. below.

b. **Determination of USACE Cost Cap.** Exclusive of the costs of investigation, report preparation, engineering and design work, and related costs, Corps expenditures for implementation of an NSAP are limited to the lesser of (1) the Federal share of rehabilitation construction costs of the project were the FCW to be structurally rehabilitated in accordance with this regulation, or (2) the Federal share of computed benefits which would be derived from

such structural rehabilitation. Exceptions to this cost cap policy may be requested from HQUSACE.

c. Allowable Costs. Allowable costs and expenses for NSAP's are:

- (1) Acquisition of land or interests in land.
- (2) Removal of structures, including manufactured homes, for salvage and/or reuse purposes.
- (3) Demolition and removal of structures, including utility connections and related items.
- (4) Debris removal and debris reduction.
- (5) Removal, protection, and/or relocation of highways, roads, utilities, cemeteries, and railroads.
- (6) Construction to promote, enhance, control, or modify water flows into, out of, through, or around the nonstructural project area.
- (7) Nonstructural habitat restoration, to include select planting of native and desirable plant species, native species nesting site enhancements, etc.
- (8) Total or partial removal or razing of existing reaches of levee, to include removal of bank protection structures and riprap.
- (9) Protection/floodproofing of essential structures and facilities.
- (10) Supervision, administrative, and contract administration costs of other allowed expenses.

**5-18. NSAP Cooperation Agreement.** In order to clearly define the obligations of the Corps and non-Federal interests, a CA (with a non-Federal sponsor) or a Memorandum of Agreement (MOA) (with other Federal agencies) is required for an NSAP. NSAP CA's require HQUSACE approval.

a. Non-Federal Interests. For NSAP's, non-Federal interests shall:

- (1) Provide without cost to the United States all borrow and dredged or excavated material disposal areas necessary for the project;

(2) Hold and save the United States free from damages due to the project, except for damages due to the fault or negligence of the United States or its contractor; and

(3) Maintain and operate the NSA project after completion in a manner satisfactory to the Chief of Engineers.

b. Costs. The CA or MOA must address all pertinent costs for the NSAP, and which agency is responsible for each.

c. Other Federal Agency Funding. NSAP CA's shall not prohibit non-Federal interests from accepting funding from other Federal agencies, so long as the provision of such other Federal agency funding is not prohibited by statute.

d. Contributed Funds. Contributed funds may be accepted without further approval by the Chief of Engineers upon execution of the CA by all parties. The required certificate of the district commander will cite 33 USC § 701h as the pertinent authority.

e. Prohibition of Future USACE Assistance. The prohibition of future assistance described in paragraph 5-16.j., above, must be included in the NSAP CA.

f. EO 11988. NSAP CA's shall include acknowledgment of, and a statement of planned adherence to, Executive Order 11988, Floodplain Management, 3 CFR 117 (1977 Compilation), by the NSAP sponsor.

g. Legal Restrictions. The CA must include a statement of legal restrictions placed on formerly protected lands that would preclude future use and/or development of such lands in a fashion incompatible with the purposes of the NSAP.

## **Section V - Rehabilitation Assistance for Hurricane/Shore Protection Projects**

**5-19. USACE Common Policy on Non-Federal Responsibilities for OMRR&R for HSPP Projects.** HSPP projects are formulated to provide hurricane and storm damage reduction. HSPP projects include hurricane/tsunami protective structures, beach nourishment projects, beach enhancement projects, and other types of projects that protect residential and commercial portions of the coastal shoreline. HSPP projects may be "soft" (i.e., consisting of sacrificial beaches, berms, and/or sand dunes), "hard" (e.g., consisting of a concrete sea wall), or a combination of the two. The non-Federal sponsor must operate, maintain, repair, replace, and rehabilitate the completed project. The unique aspect of beach protection projects is the provision for continuing Federal participation in the periodic nourishment of these projects where sand is placed on the beach, berm, or dune to replenish eroded material. Nourishment is undertaken when necessary to replace storm-induced losses and prevent erosion of the beach design section. Nourishment may be planned for on a recurring schedule, e.g., every five years, or on a complete "as-needed" basis.

### **5-20. HSPP Projects - General Policies for Rehabilitation.**

a. Eligibility. To be eligible for Rehabilitation Assistance, an HSPP must be a completed element of a Federally authorized hurricane or shore protective structure project, and repair/restoration to a pre-storm condition is necessary to allow for adequate functioning of the project. The proposed work must have a benefit to cost ratio greater than 1.0. Recreation benefits will not be used in the BCR calculation.

b. Locally Constructed Portions of an Authorized HSPP. Completed portions of an authorized HSPP that were constructed by non-Federal interests are eligible for Rehabilitation Assistance when approval of such construction was obtained from the Commander, HQUSACE or a designated representative prior to the storm event. An HSPP project or functional element thereof is considered to be complete when it has been formally transferred to the non-Federal public sponsor for OMRR&R.

c. Limit on FCCE-Funded Work. Emergency repair and rehabilitation of HSPP's with FCCE funds will be limited to that necessary to allow for adequate functioning of the project, or restoration to pre-storm condition, whichever is less.

d. The Risk Test. The need for funding under PL 84-99 will be based on an assessment of the risk to life and property, and the need for immediate action. In no case, however, will an HSPP be restored with PL 84-99 funds beyond its pre-storm condition.

e. The Extraordinary Storm. To be eligible for Rehabilitation Assistance, the HSPP must be substantially eroded/damaged by wind, wave, or water action *of an other than ordinary nature*. USACE defines this as an "extraordinary storm". An extraordinary storm



is a storm that, due to length or severity, creates weather conditions that cause significant amounts of damage to a Hurricane/Shore Protection Project.

(1) "Length or severity" refers to a Category 3 or higher hurricane as measured on the Saffir-Simpson scale, or a storm that has an exceedance frequency equal to or greater than the design storm of the project.

(2) "Significant amounts of damage" have occurred when:

(a) the cost of the construction effort to effect repair of the HSPP or separable element thereof (exclusive of dredge mobilization and demobilization costs) exceeds one million dollars and is greater than two percent of the original construction cost (expressed in current day dollars) of the HSPP or separable element thereof; or,

(b) the cost of the construction effort to effect repair of the HSPP or separable element thereof (exclusive of dredge mobilization and demobilization costs) exceeds six million dollars; or,

(c) more than one-third of the planned or historically placed sand for renourishment efforts for the HSPP (or separable element thereof) is lost; or,

(d) when only rehabilitation of hard features is involved, the criteria of paragraph 5-2.q. are met.

f. Extraordinary Storm Justification. The PIR must include justification that substantiates the occurrence of an extraordinary storm. The determination of whether a storm qualifies as extraordinary will be made by the Director of Civil Works, in consultation with the Assistant Secretary of the Army for Civil Works (ASA(CW)) if necessary. PIR justification will include relevant data from the National Weather Service. Saffir-Simpson scale Category I and Category II hurricanes (as measured at the HSPP project) are presumed to be ordinary storms in the absence of a preponderance of evidence that indicates a different conclusion.

g. Uncompleted HSPP's. Rehabilitation Assistance using PL 84-99 funds will not be provided for uncompleted HSPP's eroded by storm events. Uncompleted HSPP eroded by storm events before they are formally transferred to the non-Federal public sponsor will be restored to their design dimensions using Construction, General funds. Costs will be shared by the non-Federal public sponsor as project construction costs under the terms of the PCA.

h. Funding the Restoration Work. In most cases, the non-Federal public sponsor will wish to fully restore the HSPP soft features where only a partial restoration is justified under the provisions of PL 84-99. In other cases, normal scheduled renourishment is required in the near future. In other cases, USACE will require that full restoration must be undertaken as a

condition of receiving HSPP Rehabilitation Assistance. In such cases, the degree of project restoration eligible for rehabilitation funding under PL 84-99 versus the periodic nourishment to be accomplished under the terms of the PCA will be decided on a case-by-case basis by the Director of Civil Works, in conjunction with the ASA(CW) if necessary.

(1) In the PIR preparation, the district will apply the principle that, while an 'average' periodic renourishment cycle is estimated (normally in the PCA or the General Design Memorandum for the original HSPP), the need for periodic renourishment is most often associated with replacement of erosive losses that occurred during ordinary (vice extraordinary) storm events.

(2) Other considerations to be used in making the assessment on degree of restoration required are addressed in EP 500-1-1, Chapter 5, Section V.

i. Sharing Dredge Mobilization/Demobilization Costs. The essentially fixed costs of dredge mobilization and demobilization for a given project will be borne proportionally among contributing sources of funds. These costs will not be borne solely as a cost of rehabilitation under PL 84-99 unless FCCE funds are the only source of funds for the renourishment effort.

j. Scheduling HSPP Rehabilitation Assistance Work. HSPP Rehabilitation Assistance work should be scheduled so that completion will occur before the beginning of the next major storm season (e.g., 1 June for the Atlantic hurricane season.) Inability to do so is normally sufficient justification to disapprove HSPP Rehabilitation Assistance, because it indicates the lack of an emergency situation regarding rehabilitation of the HSPP.

## **Section VI - Other Provisions of the RIP**

### **5-21. Levee Owner's Manual.**

a. Authority. Pursuant to PL 84-99, the Corps will provide a levee owner's manual to the public sponsor of all FCW's in an Active status in the RIP.

b. Policy.

(1) Non-Federal projects. A copy of the Corps-developed levee owner's manual will be provided to sponsors of Active non-Federal projects. The levee owner's manual includes standards that must be met to gain and maintain an Active status in the Rehabilitation and Inspection Program. The levee owner's manual may also be provided, upon request, to the sponsor of an Inactive non-Federal project so that the sponsor may evaluate the project and prepare for an Initial Eligibility Inspection to gain an Active status in the Rehabilitation and Inspection Program.

(2) Federal projects. The Operations and Maintenance Manual specified by Section 208.10(a)(10) of Title 33, Code of Federal Regulations, will fulfill the requirement of providing a levee owner's manual if the Corps has not provided a separate levee owner's manual to the public sponsor of a Federal project.

c. Procedural requirements. Upon initial publication, and when substantive changes are made in the Rehabilitation and Inspection Program, the Corps will provide copies of the Levee Owner's Manual to public sponsors of Active non-Federal flood control works. Other levee sponsors, or owners of private levees who intend to seek sponsorship and Active status in the RIP, will be provided a copy of the Levee Owner's Manual upon request.

## **5-22. Regional Variances on Vegetation Standards - Policy.**

a. Authority and Background. Section 202(g) of WRDA 96 required the U.S. Army Corps of Engineers to undertake a comprehensive review of its levee vegetation policy. The review included examining current policies in view of the varied interests in providing flood control; preserving, protecting, and enhancing natural resources; protecting the rights of Native Americans pursuant to treaty and statute; and other factors as appropriate.

b. Applicability. The policy contained in this paragraph implements the Section 202(g) requirement, and applies to all Active Federal and non-Federal levees, except for Mississippi River and Tributaries (MR&T) levees. This policy also applies to all levees for which the U.S. Army Corps of Engineers has sole responsibility for maintenance and repair activities using Operations and Maintenance, General, (O&M, Gen) funding.

c. Policy - Federal and Non-Federal Levees. The public sponsor of an Active flood control levee may seek a variance from Corps policy (i.e., Appendix A of EP 500-1-1, and ER 1130-2-530) so as to allow additional vegetation to grow on levees, when allowing such vegetation would preserve, protect, and/or enhance natural resources, and/or protect the rights of Native Americans. Such variances will only be granted if:

(1) the safety, structural integrity, and functionality of the levee are retained; and,

(2) accessibility for inspection and flood fighting purposes is retained; and,

(3) the level of protection does not fall below the level necessary for levee certification under the National Flood Insurance Program if the levee is currently so certified; and,

(4) the level of protection does not fall below the minimum permissible for PL 84-99 acceptability (i.e., 5-year level of protection for agricultural levees and 10-year level of protection for urban levees).

d. Policy - O&M, Gen-funded Levees. Districts may apply variances to standing Corps policy regarding levee vegetation on O&M, Gen-funded levees as long as the conditions of paragraph c. above are met.

e. Regional Variance Agreement. The Regional Variance Agreement (RVA) is a memorandum of agreement to which the Corps, and appropriate tribal, state, and local entities, are signatories, that provides regional variances for multiple levees.

f. Approval Authority.

(1) Regional Variance. The approval authority for granting a Regional Variance is the district commander. This authority may not be delegated.

(2) Regional Variance Agreement.

(a) The approval authority for an RVA is the district commander. This authority may not be delegated.

(b) If multiple districts have geographical responsibility for the area covered by an RVA, then the Division Commander may sign the RVA, or the Division Commander may designate a lead district whose commander will manage/sign a multi-district RVA.

g. Procedures.

(1) A separate Regional Variance must be issued for each levee not covered by an RVA.

(2) Procedures and considerations for granting Regional Variances and RVA's are in paragraph 5-8.k. and Appendix D of EP 500-1-1.

**5-23. Dams.** Federal dams, and non-Federal dams with the principal function of providing flood control and/or flood damage reduction, are eligible for inclusion in the RIP. "Principal function" means that the dam is capable of containing the precipitation of a 200-year return frequency storm prior to use of the spillway.

a. Federal Dam Projects. WRDA 86 authorized the Corps to cost share in the construction of dams, with a public sponsor taking over O&M responsibility upon completion of the dam. Such projects gain an Active status in the RIP upon turnover of responsibility to the public sponsor and upon verification by the appropriate Corps office that the dam's principal function is flood control.

b. Non-Federal Dam Projects. A non-Federal dam can gain an Active status in the RIP. To do so, it must have flood control as its principal function, and it must pass a Corps Initial

Eligibility Inspection in the same manner as a non-Federal levee. Due to the unique aspects of dams and dam construction, it will be a non-Federal expense to compile the necessary data (e.g., ground borings, seismic considerations, as-builts of the structure, etc.) for the Corps to make an "office review" prior to any on-site IEI.

c. Rehabilitation Assistance for Dams. Only those components of the project necessary for flood control are eligible for Rehabilitation Assistance. This includes the dam structure itself, the spillway, outlet works, etc. Other components that are not flood control features (e.g., features for hydropower, recreation use, visitor centers, etc.) are not eligible for Rehabilitation Assistance.

d. Funding. Funding for field investigations, IEI's, CEI's, and rehabilitation for dams will be covered under the same categories as are these actions for other flood control works.

e. Procedures. Refer to EP 500-1-1, paragraph 5-20, for procedural information regarding dams in the RIP.

**5-24. Interagency Levee Task Force.** By memorandum dated 18 February 1997 with the subject of *Floodplain Management and Procedures for Evaluation and Review of Levee and Associated Restoration Projects*, the Office of Management and Budget (OMB) and the Council on Environmental Quality (CEQ) directed USACE to take the Federal agency lead for Interagency Levee Task Forces (ILTF). In their directive, OMB and CEQ mandated that appropriate Federal agencies fully consider relevant options, including nonstructural alternatives, during evaluation and review of levee repair and rehabilitation projects and associated restoration necessitated by floods or coastal storms. Repair agencies (such as the Corps) are also directed to ensure that relevant Federal and local agencies have the opportunity to comment on the project specifications and suggest appropriate modifications.

a. ILTF Goal. The overall goal of the ILTF process is to achieve a coordinated, rapid, and effective multi-agency response to damaged flood and floodplain management systems, while ensuring a cost effective approach to flood damage mitigation, floodplain management and the protection of important environmental and natural resources inherent to the floodplain. It is not intended to deny access to existing programs for levee repair that are in accord with sound financial and environmental practices, and the policies and procedures of ER 500-1-1 or other Federal agencies' authorities.

b. ILTF Activation. Based on the information available during and after a flood event, activation of an ILTF may be directed by HQUSACE. When an MSC identifies a need for an ILTF, but has not received instructions from HQUSACE to initiate the process, the MSC shall forward its request for ILTF activation to HQUSACE (ATTN: CECW-OE) for action. In either case, HQUSACE, by memorandum, will designate the appropriate MSC commander as the

lead Corps official (LCO) for the ILTF. The MSC commander may delegate LCO authority to the Deputy Division Commander or to a member of the Senior Executive Service on the Division staff. No further delegation is permitted. When multiple states are involved in a flood event, a separate ILTF will be set up for each state. An LCO will be appointed for each ILTF that is activated.

c. Funding.

(1) Generally, the Federal Emergency Management Agency (FEMA) will provide funds for ILTF activities under Emergency Support Function #3 (ESF #3) activities. In addition, FEMA will normally provide space, telecommunications support, mail costs, common user support requirements, and related support for the ILTF in the Disaster Field Office.

(2) Upon activation of an ILTF, and when FEMA (ESF #3) funds are not available for ILTF activities, the responsible MSC will submit a written request for funds to HQUSACE for each ILTF, in accordance with ER 11-1-320. ILTF activities will be funded under Class 370 for costs not covered by FEMA.

(3) Other participating agencies will provide for their own personnel and per diem costs for participation on the ILTF. Class 370 funds may not be used to fund personnel and per diem costs for ILTF participants from other agencies.

(4) All district-level and division-level levee rehabilitation efforts, and specifically division and district coordination with an ILTF, will be appropriately funded under Class 310, 320, or 340. Class 370 funds will be used only for ILTF "organizational" activities.

d. Direction and Control of an ILTF. Once initiated or approved by HQUSACE, the ILTF shall be established to review all proposals for repair and restoration of flood damaged levees and associated systems. The ILTF shall include representatives of each involved Federal agency and appropriate State, Tribal and local agencies.

(1) The LCO will ensure that the ILTF meets regularly to resolve all issues.

(2) Each repair proposal from a Federal agency (e.g., a PL 84-99 rehabilitation by USACE, an Emergency Watershed Program repair under Natural Resources Conservation Service authority, etc.) will be provided to ILTF members for review and comment prior to final action by the responsible Federal agency. A minimum of 24 hours should be provided for this review and comment period, but this time will generally not exceed 72 hours.

(3) In evaluating proposals, each agency shall consider, to the extent appropriate and practicable, nonstructural alternatives and design modifications that will:

(a) Reduce flood damages to the applicant and adjacent upstream and downstream localities.

(b) Lower long term cost to the taxpayer.

(c) Improve the environment or environmental conditions, to include water quality.

(d) Assist public and private landowners in fulfilling their conservation objectives or obligations related to protected species, wetland restoration, and riparian habitat protection.

(e) Address flood damage on a system-wide or watershed basis.

(f) Ensure compatibility with existing local or regional floodplain management and ecosystem plans, approved forest land plans, hazard mitigation plans, and resource management plans.

(g) Allow agencies to use their authorities in implementing repairs that achieve enhanced environmental values. This includes improvement of fish and wildlife habitat, species diversity, and reducing risks of future flood damages.

e. Participating Agencies. The LCO will invite appropriate State, tribal, and local agencies to participate in the ILTF, and will, as a minimum, invite the following Federal agencies:

(1) Department of Agriculture (Natural Resources Conservation Service).

(2) Department of Commerce (National Marine Fisheries Service and the Economic Development Administration).

(3) Department of Housing & Urban Development.

(4) Department of the Interior (US Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, and US Geological Survey).

(5) Department of Transportation.

(6) Environmental Protection Agency.

(7) Federal Emergency Management Agency.

(8) Small Business Administration.

f. ILTF Charter. An ILTF charter format (the Basic Charter) is provided in EP 500-1-1, Figure 5-6. Each ILTF will operate under the guidelines of the Basic Charter until such time as a revised charter is agreed upon by the participating agencies. Significant changes from the Basic Charter will be coordinated with HQUSACE (CECW-OE) prior to distribution of the revised charter for signature among the participating agencies. The LCO will be the Corps signatory of the charter.



## CHAPTER 6 EMERGENCY WATER ASSISTANCE

### **Section I - Emergency Water Assistance Due to Contaminated Water Source**

#### **6-1. Policy - Emergency Water Assistance Due to Contaminated Water Source.**

USACE may provide water to any locality confronted with a source of contaminated water causing or likely to cause a substantial threat to the public health and welfare of the inhabitants of the locality. In addition to the policy of Chapter 2, the following criteria and conditions must be met to provide the assistance.

a. **Written Request.** A written request for assistance is required from the governor or his/her authorized representative.

b. **Determination of Contamination.** Contamination, whether it is deliberate, accidental, or natural, will be established by one or more of the following:

(1) The maximum contaminant level or treatment technique of any contaminant, as established by the EPA pursuant to the Safe Drinking Water Act, is exceeded.

(2) The water supply has been identified as a source of illness by a state or Federal public health official. The specific contaminant or pathogen does not have to be identified.

(3) An emergency has occurred that has resulted in either one or more contaminants entering the source on a sufficient scale to endanger health, or has made inoperable the equipment necessary to remove known contaminants. Examples of this type of emergency are flooding and chemical spills.

(4) The presence of a contaminant is indicated on the basis of other information available.

c. **Scope and Approval of USACE Assistance.** USACE assistance may only supplement state and/or local efforts to provide water for human consumption for the benefit of public health and welfare. Assistance may be provided to localities whose publicly or privately owned water and/or distribution system services a community. A CA is required for USACE assistance to be provided. Water will not be provided for livestock.

d. **Standard of USACE Assistance.** USACE assistance will normally be temporary to meet the immediate threat. Removal of any temporary work will be the responsibility of the local interests. The permanent restoration of safe water supplies is the responsibility of local interests. USACE assistance will not be used to accomplish deferred or deficient maintenance.

e. **Limitation on Time for USACE Assistance.** USACE assistance is limited to 30 days, or until FEMA undertakes the provision of emergency water under its own authorities (with a reasonable allowance of time to transition from USACE PL 84-99 assistance to FEMA Stafford Act assistance), whichever is earlier. HQUSACE may extend this time limit provided there is adequate justification and explanation why state and local governments cannot provide water within 30 days. Such extension requires a CA (new, or by amending the previous one) between the state and USACE, covering specified services and providing a firm timetable for local interests to provide normal supplies.

f. **Multiple Sources of Water.** If a locality has multiple sources of water and some are contaminated, no assistance will be provided if the remaining non-contaminated sources, with reasonable conservation measures, can supply the minimum need. However, if the remaining non-contaminated sources cannot provide the minimum need after conservation measures have been instituted, then assistance can be provided to supplement the supply to meet the minimum need.

g. **Loss of Water Supply.** Loss of supply cases (e.g., a lake level drops below existing water intake levels for the water treatment plant) are not eligible for assistance. However, if supply is lost in some, but not all, of a multiple source system, and part of the remaining source becomes contaminated, then paragraph 6-1.f. above applies. If the loss of supply is due to drought, refer to Section II of this chapter.

h. **Water for Businesses.** Water will not be furnished to a business or firm for use in its processes, except as incidental to the use of existing distribution systems. This does not prohibit the furnishing of water for drinking by employees and on-site customers.

i. **Liability and Legal Action.** Cases involving deliberate or accidental contamination will be coordinated with the EPA for determination of liability and possible legal action. However, the primary concern of USACE is protecting the public health and welfare. If necessary, USACE will provide assistance and later seek recovery of costs through legal action.

j. **Eligibility for Assistance.** A qualified Indian tribe, Alaska Native Corporation, or tribal organization is also eligible for assistance. Assistance will not be provided to military bases and other Federal lands under this authority.

k. **Drought Considerations.** Contamination due solely to drought would be handled under the drought assistance authorization, Section II of this chapter.

l. **Water Quality Testing.** Districts shall ensure that the contractor transporting bulk water tests the water at the pickup and delivery points to verify compliance with applicable water quality standards, or that a suitable substitute system is employed.

**6-2. Provision of Emergency Water Assistance - Contaminated Water Source.**

USACE assistance under this authority may include, but is not limited to, purchase of water, transport of water to local water points, delivery of bulk or bottled water to community-level distribution points, temporary connection of a new supply to the existing distribution system, installation of temporary filtration, or use of military units with water purification/storage/distribution capability.

a. Provision of Assistance. District engineers will determine the quantity of water, type (bulk and/or bottled) of water, and the means of distribution needed after considering both the needs of the individual situation and the cost effectiveness of the available options.

b. Sale of Water. Section 6 of the 1944 Flood Control Act (PL 78-534) provides authority to allow the sale of water stored in USACE reservoirs deemed surplus. Procedures for the sale of surplus water are included in ER 1105-2-100, Chapter 4.

c. Cooperation Agreement Requirement. A CA is required in order to obtain USACE emergency water assistance. The format is in EP 500-1-1, Chapter 6, Figure 6-3.

**6-3. Funding.** ER 11-1-320 prescribes funding procedures for emergency water assistance activities.

**6-4. Procedures.** Refer to EP 500-1-1, Chapter 6, Section I, for PIR preparation, processing procedures, and CA format.

***Section II - Emergency Water Assistance Due to Drought***

**6-5. Policy - Emergency Water Assistance Due to Drought.** USACE may provide temporary emergency water assistance for human consumption/usage to a drought distressed area to meet minimum public health and welfare requirements. USACE assistance is supplemental to state and local efforts. Long term solutions to water supply problems are the responsibility of state and local interests. In addition to the policy of Chapter 2, the following criteria and conditions must be met to provide the assistance.

a. Governor's Request. A written request for assistance is required from the governor or his/her authorized representative. An applicant submitting a request directly to USACE will be referred to the State Emergency Management Agency or equivalent office.

b. Drought Distressed Area. A drought distressed area is one that the Director of Civil Works or the ASA(CW) determines to have an inadequate water supply that is causing, or is likely to cause, a substantial threat to the health and welfare of the inhabitants of the area,

including the threat of damage or loss of property. There must be a definable need in the immediate future that cannot be met totally by state and local actions underway or planned. Where reasonable conservation measures will ensure adequate supplies to meet the need for public health and welfare, there should be no need for a detailed evaluation or assistance by USACE. A credible plan for providing a long-term solution must be developed by the local and state governments and executed expeditiously. If a long-term solution is not expeditiously pursued, USACE assistance is not permitted.

c. Evaluating Potential Drought Distressed Areas. In evaluating a potential "drought distressed" area, consideration must be given to both the measurements used to define the drought and the magnitude of the impacts of the drought on the area under investigation. Therefore, the investigation must indicate that a shortage of water exists, and that the shortage is severely affecting the health and welfare of a major segment of the population in the area proposed for designation as "drought distressed."

d. Limitations of Provision of Water. Water for livestock, irrigation, recreation, or commercial/industrial processing will not be provided under this authority.

e. Non-USACE Expenses. The purchase or acquisition of the water and the storage facility at the terminal point are non-USACE expenses.

f. Permanent Facility. Where the recommended option for transporting water includes a permanent facility, there must be clear justification for such an action. Costs for such a permanent facility will be borne by the public sponsor.

g. Sale of USACE Water. Section 6 of the 1944 Flood Control Act (PL 78-534) provides authority to allow the sale of water stored in USACE reservoirs deemed surplus. When appropriate, this source of water should be considered in providing emergency water assistance. Procedures for the sale of surplus water are included in ER 1105-2-100, Chapter 4.

h. Transportation Costs and Water Testing. Any costs associated with transportation of water will be funded by USACE. Districts will ensure that the contractor transporting bulk water tests the water at the pickup and delivery points to verify compliance with applicable water quality standards.

i. Wells. USACE may construct wells only when commercial or other sources cannot construct it within a reasonable time. Federally owned well drilling equipment can only be used when commercial firms cannot provide comparable service within the time needed to prevent the applicant from suffering increased hardships from the effects of an inadequate water supply.

j. Payment for Wells. Wells constructed by USACE will be paid for by the applicant, and will be the lesser of:

(1) USACE actual cost to construct well(s), exclusive of the cost of transporting equipment used in the construction of wells and the cost of investigation; or,

(2) The cost to a private business to construct such well(s).

k. For wells constructed by USACE, the applicant must enter into an agreement to pay to the United States either:

(1) the reasonable cost of the construction prior to commencement of construction, or,

(2) the reasonable cost of the construction, with interest, over a period of years, not to exceed 30 years, as the Chief of Engineers deems appropriate. The rate of interest charged the applicant will be that rate that would apply if the amount to be repaid was a loan pursuant to Section 7(b)(2) of the Small Business Act, PL 85-536 (15 U.S.C. 636). Eligibility criteria for a loan will be in accordance with the practices of the SBA. Repayment will be in accordance with the established procedures by Finance and Accounting elements.

l. Permits. The applicant is required to obtain all necessary Federal, state, and local permits, and provide all necessary lands, easements, rights-of-way, and rights-of-entry.

m. Stafford Act Mission. A mission under the Stafford Act to address this type of emergency normally obviates the need for PL 84-99 assistance.

**6-6. Provision of Emergency Water Assistance- Drought.** USACE assistance under this authority may include, but is not limited to, transport of water to local water points, distribution of bottled water, temporary connection of a new supply to the existing distribution system, installation of temporary filtration, or use of military units with water purification/storage/distribution capability. USACE assistance will be at 100 percent Federal cost.

a. Level of Assistance. Commanders will determine the quantity of water, type (bulk and/or bottled) of water, and the means of distribution needed after considering both the needs of the individual situation and the cost effectiveness of the available options.

b. Cooperation Agreement. A CA is required to obtain USACE assistance. This format is in EP 500-1-1, Chapter 6, Figure 6-6.

**6-7. Funding.** ER 11-1-320 prescribes funding procedures for emergency water activities.

**6-8. Procedures.** Refer to EP 500-1-1, Chapter 6, Section II, for PIR preparation, processing procedures, and CA format.

## CHAPTER 7 ADVANCE MEASURES

**7-1. Policy.** USACE may perform Advance Measures prior to flooding or flood fighting activities to protect against loss of life and significant damages to urban areas and/or public facilities due to an imminent threat of unusual flooding. Advance Measures assistance may be taken prior to a flood, a hurricane or coastal storm, or a storm on an inland body of water, or a closed basin flood. In addition to the policy in Chapter 2, the following criteria and conditions must be met to provide Advance Measures assistance.

a. Requirement. An imminent threat of unusual flooding must exist to justify Advance Measures assistance from USACE. The threat must be established either by National Weather Service (NWS) forecasts or by USACE determination of unusual flooding from adverse conditions. The threat must be such that substantial damages will be incurred if preventive/protective action is not taken prior to the forecast event. Prior to beginning an Advance Measures application, other USACE authorities must also be considered. If any other USACE authority is applicable (e.g., a Section 9 of the Flood Control Act of 1946 action when releases from a Corps flood control reservoir project may cause flooding downstream), then Advance Measures may not be undertaken.

(1) Definition of Imminent Threat. A subjective, statistically supported evaluation of how quickly a threat scenario can develop, how likely that threat is to develop in a given geographical location, and how likely the threat will produce catastrophic consequences to life and improved property, which, when combined, result in a high probability of occurrence. Implicit in the threat aspect can be considerations of time (e.g., a storm front's predicted path), season (e.g., a snowpack that will melt in the coming spring runoff), or known cyclical activities (e.g., rising water levels in the Great Lakes) that occur inside of the normal Corps decision and execution cycle for small project construction.

(2) Definition of Unusual Flooding. A subjective determination that considers potential ability to approach an area's flood of record, a catastrophic level of flooding, or a greater than 50-year level of flooding.

b. USACE Supports State and Local Efforts. Advance Measures assistance will be in support of state and local ongoing or planned efforts. All activities will be coordinated with the State Emergency Management Agency or equivalent. Non-Federal interests must commit available resources (i.e., work force, supplies, equipment, funds, National Guard forces, etc.)

c. Governor's Request. A written request from the Governor is required for USACE assistance. See EP 500-1-1, paragraph 7-4.b. for requirements of the Governor's request.

d. No Assistance for Erosion Damage. Advance Measures assistance solely to prevent erosion damage is not permitted.

e. Channels. Channel clearance and dredging to restore original project design capacity is permitted if predicted flood flows cannot be passed and flooding is likely to occur.

f. Prohibition on Permanent Betterments. Advance Measures assistance will not normally be used to make a permanent modification to FCW to increase the degree of protection or capacity or to provide protection to a larger area.

g. Benefit to Cost Ratio. Projects undertaken must have a favorable BCR (i.e., > 1.0) in accordance with the Principles and Guidelines contained in Chapter 6, ER 1105-2-100, regarding National Economic Development (NED) Benefit Cost Analysis.

h. Nature of USACE Advance Measures Assistance. USACE Advance Measures assistance will be temporary in nature, technically feasible, designed to deal effectively with the specific threat, and capable of construction in time to prevent projected damages. Permanent work may be considered when the permanent project costs less or is significantly more cost effective than the temporary solution.

i. Public Sponsor Requirements. The public sponsor must agree to execute a CA, and, at no cost to USACE, when the operation is over, remove all temporary work constructed by USACE, or agree to upgrade the work to standards acceptable to USACE. In addition, the public sponsor is responsible for providing the traditional a-b-c's at its own expense.

j. Termination of USACE Assistance. USACE Advance Measures assistance will be terminated no later than when the imminent flood threat ends.

k. Assistance for Ice Jams and Ice Jam Blasting. USACE assistance regarding ice jam clearing and ice jam blasting is limited to technical assistance. Under no circumstances will USACE participate in any type of direct assistance involving ice jam blasting activities.

l. Haul Roads. Refer to paragraph 5-2.t. for policy regarding haul roads used during Advance Measures.

m. Cost Sharing. USACE will provide 100 percent of the investigative costs of Advance Measures projects. USACE will provide 100 percent of the engineering and design costs of Advance Measures projects.

(1) Temporary Construction Standard. USACE will provide 100 percent of the costs of Advance Measures projects that use a temporary standard of construction, excluding those costs addressed in paragraph 7-1.i. above.



(2) Permanent Construction Standard. Advance Measures projects using a permanent standard of construction will be cost shared at 75 percent Federal and 25 percent local. Cost sharable items include construction costs, supervision and administration (S&A) costs, costs for preparation of any required Operation and Maintenance manuals, and contingency costs for these items.

n. Project Information Reports for potential Advance Measures projects will be forwarded by the district through the division to HQUSACE (CECW-OE). Approval authority for Advance Measures projects is the Chief, Operations Division (CECW-O).

**7-2. Types of Advance Measures Assistance.** Advance Measures assistance may be technical and/or direct assistance. Direct assistance may only be provided as part of an approved Advance Measures project.

a. Technical Assistance. Technical assistance consists of providing technical review, advice, and/or recommendations to state and local agencies before an anticipated flood event. The following are examples of technical assistance support:

(1) Providing personnel to inspect existing FCW to identify potential problems and solutions, to evaluate conditions to determine the requirements for additional flood control protection, and to recommend the most expedient construction methods.

(2) Providing hydraulic, hydrologic, and/or geotechnical analysis.

(3) Providing information readily available at USACE districts to local entities for use in the preparation of local evacuation and/or contingency flood plans. Providing assistance in the preparation of flood fight plans.

b. Direct Assistance. Direct assistance is assistance USACE provides to supplement state and local resources, as part of an approved Advance Measures project. Direct Assistance may include supplies, equipment, and/or contracting for the construction of temporary and/or permanent flood control projects. Examples of emergency contracting work include the construction of temporary levees; the repair, strengthening, or temporary raising of levees, or other FCW; shore protection projects; or removal of stream obstructions, to include channel dredging of Federal projects to restore the design flow.

c. Contingency Planning Efforts for Potential Advance Measures Activities. Occasionally weather phenomena occur which produce a much higher than normal probability or threat of flooding which may be predicted several months in advance of occurrence or significant impact, but which may not reach the defined level of "imminent threat" or "unusual flooding". Impacts on specific locations may be unpredictable, but regional impacts may have a high likelihood of occurrence. In such situations, the Corps may provide technical and contingency planning assistance to tribal and state agencies, commensurate with the predicted weather phenomenon, based on requests for assistance from such tribal and State agencies. Based on a state-level request, assistance may also be provided to local agencies. A Governor's request is not required for contingency planning efforts. Potential Advance Measures projects that may emanate from such contingency planning assistance must be addressed as otherwise specified in this chapter and in EP 500-1-1, Chapter 7.

### **7-3. Eligibility.**

a. Federal Projects. Advance Measures may be undertaken on Federal flood damage reduction projects that are in imminent danger of failure/overtopping if the criteria in paragraph 7-1. are met. In those instances where an FCW is in imminent danger of structural failure, Advance Measures can be employed to undertake minimum corrective action to ensure the stability, integrity, and safety of such projects.

(1) Actions under this authority are a last resort.

(2) Actions will be limited to those necessary to prevent imminent failure of a project that meets the following criteria:

(a) A failure poses a significant threat to life and/or improved property; and,

(b) The work on the project is beyond the capability of local interests and the State to perform in a timely manner.

(3) In cases where the corrective action includes work to remedy the results of inadequate maintenance by local interests, the costs for such work are a non-Federal responsibility and shall be assigned as a local cost. Repair work will not be delayed because of difficulties in obtaining funding on the public sponsor's part.

b. Corps FCW. FCW that are operated and maintained by USACE will not be pursued as Advance Measures under PL 84-99.

c. Other Federal Agency FCW's. FCW's constructed by other Federal agencies will not be pursued as Advance Measures under PL 84-99 if the constructing agency has authority to address the flood threat.

d. Non-Federal FCW's. Advance Measures may be undertaken on non-Federal flood damage reduction projects that are in imminent danger of failure/overtopping if the criteria in paragraph 7-1. are met. In those instances where an FCW is in imminent danger of structural failure, Advance Measures can be employed to undertake minimum corrective action to ensure the stability, integrity, and safety of such projects.

e. Other Situations. Construction of temporary flood damage reduction structures (normally levees) may be undertaken.

f. Potential Scenarios within which Advance Measures may apply. See EP 500-1-1, paragraph 7-3.

**7-4. Funding.** Funding will be in accordance with ER 11-1-320.

**7-5. Procedures.** Refer to EP 500-1-1, Chapter 7.

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## **CHAPTER 8 HAZARD MITIGATION**

**8-1. Policy.** USACE will support the Interagency Agreement for Non-Structural Flood Damage Reduction Measures as Applied to Common Flood Disaster Planning and Post Flood Recovery Practices. The primary objective of the agreement is to reduce or avoid Federal expenditures resulting from flood situations through a coordinated interagency and intergovernmental team approach that develops flood hazard mitigation recommendations. The Hazard Mitigation Team (HMT), led by FEMA, is the mechanism by which this is accomplished.

**8-2. Implementation.** MSC commanders will:

- a. Appoint primary and alternate representatives to serve on the HMT.
- b. Establish procedures for quick and effective response to the requirements of the HMT in accordance with FEMA's Handbook of Procedures for Flood Hazard Mitigation.
- c. Ensure essential information and data necessary to assess mitigation opportunities are available or capable of being obtained quickly.
- d. Ensure MSC HMT representatives are trained in flood hazard mitigation concepts and techniques.
- e. Provide reports/comments to FEMA and HQUSACE.

**8-3. Funding.** Funding will be in accordance with ER 11-1-320.

**8-4. HMT Concept of Operations.** Refer to EP 500-1-1, Chapter 8.

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## **CHAPTER 9**

### **DEPARTMENT OF THE ARMY ASSISTANCE UNDER AR 500-60**

**9-1. Policy.** In implementation of and compliance with AR 500-60, USACE will support the Commander-in-Chief (CINC), US Joint Forces Command (USJFCOM), the CINC, Southern Command (SOUTHCOM), and the CINC, Pacific Command (PACOM) for disaster relief efforts of DOD. USACE will also provide support during other disasters and emergencies when directed by the Secretary of Defense, the Secretary of the Army, or the Directorate of Military Support.

a. Provision of Assistance. MSC and district commanders may assist civil authorities, recognized relief agencies, and Federal agencies charged with disaster relief. Assistance will be provided as needed (at the discretion of the commander of the activity providing the assistance) or as directed by higher authority. Assistance may be provided:

(1) When the situation is so severe and so widespread that effective response is beyond the capacity of the tribal, State and local governments (including the National Guard).

(2) When support is not immediately available from commercial sources. Support will normally not be furnished if it competes with private enterprise or the civilian labor force, unless so directed by FEMA or HQUSACE.

(3) When direct action is needed immediately to save human life.

(4) By the Commander, Pacific Ocean Division, to PACOM and the U.S. Army, Pacific, to address unique situations present in the PACOM Area of Responsibility.

b. Limitation of USACE Resources. Use of USACE resources in civil emergency relief operations will be limited to those resources that are not immediately required for the execution of the primary USACE mission.

c. Inadequate Communications Ability. When a serious emergency or disaster occurs (e.g., a massive earthquake) that requires immediate response, and waiting for instructions from higher authority would preclude or hamper effective response, and communications with higher authority is difficult or impossible, MSC or district commanders may act to do what is required and justified. This action includes anything necessary to save human life, prevent immediate human suffering, or lessen major property damage or destruction. The commander will report the action taken to HQUSACE as soon as possible. Guidance will be requested from HQUSACE if continued support is necessary or beyond the commander's ability to sustain.

d. Assistance Not to Be Delayed. In situations described in c. above, support will not be delayed or denied pending a commitment of reimbursement from the requestor.

(1) In addition, if needed, the MSC or district may request support from other DOD activities and units. An example of this type of support would be obtaining a helicopter from a nearby Army installation or Navy base.

(2) No emergency contracting is permitted under AR 500-60 unless funds are provided by the requesting (non-USACE) activity.

## **9-2. DOD Delegation of Authority and Areas of Responsibility.**

a. DOD Executive Agent. The Secretary of the Army is designated as the DOD Executive Agent for military support in disasters and emergencies. Responsibilities include the effective use, coordination, and control of military resources employed by the Army, Navy, Air Force, and other DOD components, to include all USACE activities.

b. Director of Military Support. The Director of Military Support (DOMS) acts for the DOD Executive Agent for military support in civil disaster situations. DOMS develops procedures and monitors the employment of DOD resources used in disaster relief. DOMS is also the DOD point of contact with FEMA and other Federal or Departments in all matters related to military assistance, excluding ESF #3 activities, during major disasters or emergencies.

c. Tasking Authority. DOMS principally tasks four commands for executing FRP missions. These four commands are:

(1) USJFCOM. The USJFCOM Area of Responsibility (AOR) is the Continental US (CONUS). The US Army Forces Command (FORSCOM) is USJFCOM's lead operational authority (LOA) for the FRP.

(2) SOUTHCOM. The SOUTHCOM AOR is Puerto Rico and the Virgin Islands.

(3) PACOM. The PACOM AOR is Alaska, Hawaii, US possessions in the Pacific, and the former trust territories in the Pacific.

(4) USACE. USACE is authorized to deal directly with FEMA as the lead DOD agency for ESF 3 planning and execution. For purposes of support to the FRP and execution under PL 84-99, USACE is not a subordinate of a CINC. However, USACE may provide support to ongoing CINC operations upon request or as directed by DOMS.

**9-3. Funding.** MSC and district use of USACE personnel, equipment and supplies for assistance rendered under authority of AR 500-60 and this chapter is on a non-reimbursable



basis for USACE funds. Costs will be charged to the MSC or district overhead accounts, or other accounts as may be appropriate. However, all appropriate costs and charges will be accounted for, in the event that reimbursement procedures and funding are made available by DOD.

**9-4. Army Doctrine - Domestic Support Operations.** Field Manual (FM) 100-19, Domestic Support Operations, and FM 100-23-1, Multiservice Procedures For Humanitarian Assistance Operations, should be referenced for Army doctrine on domestic operations as needed. FM 100-19 describes the six principles for the conduct of domestic operations as follows:

a. *Objective* - *Direct every military operation toward a clearly defined, decisive, and attainable objective.* All commanders and soldiers must understand the objective and integrate their efforts with those of the supported civil authorities to achieve it. The concepts of mission, enemy, troops, terrain, and time available (METT-T) determine intermediate or subordinate objectives that must be accomplished to achieve the primary objective.

b. *Unity of effort* - *Seek unity of effort toward every objective.* Commanders must seek, establish, and maintain unity of effort. In most crisis situations, they will be in support and under the general direction of civil authorities. They must coordinate closely with these authorities and clearly understand the lines of authority and control. Unity of effort also requires coordination and cooperation among the other federal agencies involved. Almost all domestic support operations will be conducted in a joint and interagency environment. Although unity of *command* may not be possible since command structures vary, the requirement for unity of *effort* remains.

c. *Legitimacy* - *Sustain the people's willing acceptance of the right of the government to govern or of a group or agency to make and carry out decisions.* Legitimacy derives from the perception that using military force is a legal, effective, and appropriate means of exercising authority for reasonable purposes. However, the issue of legitimacy demands caution and critical judgment. The Army must be aware of the legitimate interests, prerogatives, and authority of the various levels of civil government involved and act accordingly. If the Army aids in the solution of a domestic problem but detracts from the legitimacy of the national or state governments by so doing, its actions will be detrimental to the federal government's long-term strategic objectives.

d. *Perseverance* - *Prepare for the measured, protracted application of military capabilities in support of strategic aims.* Domestic support operations may require years to achieve desired effects. They may not have a clear beginning or end decisively. For example, the Army's involvement in counterdrug operations, which began in 1981, remains Active.

e. *Restraint* - *Apply appropriate military capability prudently.* Specific rules of engagement govern the disciplined application of force. In operations other than war, these rules will be more restrictive, detailed, and sensitive to political concerns and may change frequently during operations. Restraints on weaponry, tactics, and levels of force characterize domestic support operations.

d. *Security* - *Never permit hostile forces to acquire an unexpected advantage.* The Army must never be lulled into believing that the nonhostile intent of a mission involves little or no risk. Individuals or groups may wish to take advantage of a crisis situation for personal gain or to make a political statement. Commanders must be ready to counter activity that could bring harm to their units or jeopardize their mission. Disaster assistance operations focus on alleviating human suffering, but as Army forces involved in 1992 Hurricane Andrew relief discovered, prevention of looting and protection of supplies are also necessary.

## **CHAPTER 10**

### **NATIONAL OIL AND HAZARDOUS SUBSTANCE POLLUTION CONTINGENCY PLAN**

**10-1. General.** Planning or procedures to respond to releases requiring remedial action under the NCP are governed by 40 CFR Part 300 and ER 200-2-3.

#### **10-2. Policy.**

a. **Precautions.** USACE will take all necessary precautions to prevent discharges of oil and releases of hazardous substances, pollutants or contaminants (discharges and releases) due to USACE activities and to provide for a prompt, coordinated and effective response to contain and clean up discharges or releases that might occur.

b. **MSC/District Responsibilities.** MSC and District Commands will coordinate and plan for response, participate in RRT activities, and operate the EOC under FCCE authority.

c. **USACE Information.** MSC's and districts will ensure that regional contingency plans and on-scene coordinator contingency plans for response to discharges and releases include information on USACE resources and facilities that could be used during response and clean up operations.

d. **USACE Facilities.** USACE will make available any facilities or resources that may be useful in the response and clean up operations. Availability must be consistent with USACE authorities and operational requirements.

e. **USACE Projects.** USACE project offices that operate and maintain completed USACE projects will develop and maintain a project contingency plan and action plan for responses to discharges and releases, in accordance with ER 200-2-3.

**10-3. Authority.** USACE has authority to remove sunken vessels or similar obstructions from navigation channels under Sections 15, 19, & 20 of the River and Harbors Act of 1899, as amended.

#### **10-4. Procedures.**

a. **USACE Projects.** Planning, prevention, control and reporting of discharges and releases for project offices that operate and maintain completed USACE projects are subject to the applicable provisions of AR 200-1 and ER 200-2-3.

b. Non-USACE Activities. Planning, preparedness and response assistance to discharges and releases from non-USACE activities are subject to the applicable provisions of AR 500-60.

c. Notification. Notice of an oil discharge or release of a hazardous substance in an amount equal to or greater than the reportable quantity must be made immediately to the National Response Center, HQ USCG, Washington, D.C. telephone (800) 424-8802 or (202) 267-2675. Notification procedures for USACE projects shall be similar to those identified in Chapter 8 of AR 200-1. Information on reportable quantities for oil and hazardous substances is referenced in AR 200-1.

## **CHAPTER 11 CONTRACTING**

### **11-1. Policy.**

a. Contracting Requirements. All applicable contracting regulatory requirements will be met during emergency conditions. Policies, procedures, and forms to be used are prescribed in the Federal Acquisition Regulation (FAR), Defense FAR Supplement (DFAR), Army FAR Supplement (AFARS), Army Federal Acquisition Regulation Supplement Manual No. 2 (Contingency Contracting), and the Engineer FAR Supplement (EFARS).

b. Expeditious Accomplishment of Disaster Operation Requirements. Normal administrative requirements are secondary to expeditious accomplishment of disaster operations when saving time is essential for public health, safety, and the preservation of life and property (i.e., almost all uses of funds from Categories 200 through 500, to specifically include Class 310 and Class 320 levee rehabilitation efforts.) The responsible Contracting Officer will ensure that required documentation is completed at the earliest practical time.

c. Sufficiency of Resources and Support. Contracting offices in each district will provide the full spectrum of specialized acquisition support, contracting resources, contracting methods, and contract types necessary for execution of all FCCE-funded contracts, and to facilitate performance of contracts essential to the performance of the USACE emergency management mission.

d. Applicability. Contingency contracting is applicable to all emergency responses (Categories 200-500) and FEMA Direct Federal Assistance.

e. Other Than Full and Open Competition. Contingency contracting justifies other than full and open competition as allowed by FAR 6.302.

**11-2. Contingency Contracting.** Contingency contracting will be accomplished using all pertinent emergency and exigency conditions allowed under the FAR, DFAR, AFARS, EFARS, and the Army Federal Acquisition Regulation Supplement Manual No. 2 (Contingency Contracting). Contingency contracting considerations will include, on FEMA-funded missions, the FAR requirement (6.302-5 (b)(5) and FAR Subpart 26.2) for providing preference in awarding contracts to local businesses.

**11-3. Policy on Contracting Strategy.** All available contracting methods, to include the Advanced Contracting Initiative, Indefinite Delivery Order/Indefinite Quantity contracts, Job Order Contracting, and contingency clauses in routine construction contracts, will be considered, along with all aspects of contingency contracting, when determining the most expeditious method for accomplishing emergency work.

FOR THE COMMANDER:



ROBERT CREAR  
Colonel, Corps of Engineers  
Chief of Staff

2 Appendices  
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## **Appendix A**

### **REFERENCES**

USACE policy on publications states that publications will be kept up to date via the USACE publications home page. The address for the USACE publications home page is [www.usace.army.mil/publications](http://www.usace.army.mil/publications).

#### **Section I**

##### **Related Public Laws**

###### **PL 77-228**

Section 5, Flood Control Act of August 18, 1941.

###### **PL 93-288**

Robert T. Stafford Disaster Relief and Emergency Assistance Act. (Note: FEMA no longer refers to the Stafford Act as "PL 93-288". The designation is provided as information only.)

###### **40 CFR Part 300**

National Oil and Hazardous Substances Pollution Contingency Plan.

#### **Section II**

##### **Required Regulations and Manuals**

###### **AR 25-400-2**

The Modern Army Record Keeping System (MARKS).

###### **AR 200-1**

Environmental Protection and Enhancement.

###### **AR 500-60**

Disaster Relief.

###### **AR 700-131**

Loan or Lease of Army Material

**Army Federal Acquisition Regulation Supplement Manual No. 2**  
Contingency Contracting.

###### **ER 5-1-11**

USACE Business Process.

**ER 10-1-2**

US Army Corps of Engineers Division and District Offices.

**ER 11-1-320**

Civil Works Emergency Management Programs.

**ER 11-2-201**

Civil Works Activities - Funding, Work Allowances, & Reprogramming.

**ER 37-2-10**

Accounting and Reporting, Civil Works Activities.

**ER 200-2-2**

Procedures for Implementing NEPA.

**ER 200-2-3**

Environmental Compliance Policies.

**ER 500-1-28**

Response Planning Guide (Emergency Employment).

**ER 700-1-1**

USACE Supply Policies and Procedures.

**ER 750-1-1**

Materiel Maintenance Policies.

**ER 1105-2-100**

Planning Guidance Notebook.

**ER 1130-2-530**

Flood Control Operations and Maintenance Policies.

**ER 1140-1-211**

Support for Others: Reimbursable Work.

**ER 1165-2-26**

Implementation of Executive Order 11988 on Flood Plain Management.

**ER 1165-2-30**

Acceptance and Return of Required, Contributed, or Advanced Funds.



**ER 1165-2-119**

Modifications to Completed Projects.

**EFARS**

Engineer Federal Acquisition Regulations Supplement.

**EP 1165-2-1**

Policy Digest.

**EP 500-1-1**

Civil Emergency Management Program - Procedures.

**EM 385-1-1**

USACE Safety and Health Requirements Manual.

**EM 1110-2-301**

Guidelines for Landscape Planting at Flood walls, Levees, and Embankment Dams.

**Section III**

**Related Regulations, Manuals, and Documents**

**DOD Directive 3025.1**

Military Support to Civil Authorities.

**DOD Directive 5030.41**

Oil and Hazardous Substances Pollution Prevention and Contingency Program.

**DOD Manual 3025.1**

DOD Manual For Civil Emergencies.

**FM 100-19**

Domestic Support Operations.

**FM 100-23-1**

Multiservice Procedures For Humanitarian Assistance Operations.

**ER 360-1-1**

Public Affairs.

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**ER 405-1-12**  
Real Estate Handbook.

**ER 690-1-321**  
Staffing for Civilian Support to Emergency Operations.

**ER 1105-2-100**  
Planning Guidance Notebook.

**ER 1110-2-1941**  
Drought Contingency Plans.

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**APPENDIX B**  
**PUBLIC LAW 84-99**

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**33 U.S.C. 701n. Flood emergencies; extraordinary wind, wave, or water damage to federally authorized hurricane or shore protective structures; emergency supplies of water; drought; well construction and water transportation**

(a)(1) There is hereby authorized an emergency fund to be expended in preparation for emergency response to any natural disaster, in flood fighting and rescue operations, or in the repair or restoration of any flood control work threatened or destroyed by flood, including the strengthening, raising, extending, or other modification thereof as may be necessary in the discretion of the Chief of Engineers for the adequate functioning of the work for flood control, or in implementation of nonstructural alternatives to the repair or restoration of such flood control work if requested by the non-Federal sponsor; in the emergency protection of federally authorized hurricane or shore protection being threatened when in the discretion of the Chief of Engineers such protection is warranted to protect against imminent and substantial loss to life and property; in the repair and restoration of any federally authorized hurricane or shore protective structure damaged or destroyed by wind, wave, or water action of other than an ordinary nature when in the discretion of the Chief of Engineers such repair and restoration is warranted for the adequate functioning of the structure for hurricane or shore protection. The emergency fund may also be expended for emergency dredging for restoration of authorized project depths for Federal navigable channels and waterways made necessary by flood, drought, earthquake, or other natural disasters. In any case in which the Chief of Engineers is otherwise performing work under this section in an area for which the Governor of the affected State has requested a determination that an emergency exists or a declaration that a major disaster exists under the Disaster Relief and Emergency Assistance Act [42 U.S.C.A. Section 5121 et seq.], the Chief of Engineers is further authorized to perform on public and private lands and waters for a period of ten days following the Governor's request any emergency work made necessary by such emergency or disaster which is essential for the preservation of life and property, including, but not limited to, channel clearance, emergency shore protection, clearance and removal of debris and wreckage endangering public health and safety, and temporary restoration of essential public facilities and services. The Chief of Engineers, in the exercise of his discretion, is further authorized to provide emergency supplies of clean water, on such terms as he determines to be advisable, to any locality which he finds is confronted with a source of contaminated water causing or likely to cause a substantial threat to the public health and welfare of the inhabitants of the locality. The appropriation of such moneys for the initial establishment of this fund and for its replenishment on an annual basis, is hereby authorized: *Provided*, That pending the appropriation of sums to such emergency fund, the Secretary of the Army may allot, from existing flood-control appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriation herein authorized when made. The Chief of Engineers is authorized, in the prosecution of work in connection with rescue operations, or in conducting other flood emergency work, to acquire on a rental basis such motor vehicles, including passenger cars and buses, as in his discretion are deemed necessary.

(2) In preparing a cost and benefit feasibility assessment for any emergency project described in paragraph (1), the Chief of Engineers shall consider the benefits to be gained by such project for the protection of-

- (A) residential establishments;
- (B) commercial establishments, including the protection of inventory; and
- (C) agricultural establishments, including the protection of crops.

(b)(1) The Secretary, upon a written request for assistance under this paragraph made by any farmer, rancher, or political subdivision within a distressed area, and after a determination by the Secretary that (A) as a result of the drought such farmer, rancher, or political subdivision has an inadequate supply of water, (B) an adequate supply of water can be made available to such farmer, rancher, or political subdivision through the construction of a well, and (C) as a result of the drought such well could not be constructed by a private business, the Secretary, subject to paragraph (3) of this subsection, may enter into an agreement with such farmer, rancher, or political subdivision for the construction of such well.

(2) The Secretary, upon a written request for assistance under this paragraph made by any farmer, rancher, or political subdivision within a distressed area, and after a determination by the Secretary that as a result of the drought such farmer, rancher, or political subdivision has an inadequate supply of water and water cannot be obtained by such farmer, rancher, or political subdivision, the Secretary may transport water to such farmer, rancher, or political subdivision by methods which include, but are not limited to, small-diameter emergency water lines and tank trucks, until such time as the Secretary determines that an adequate supply of water is available to such farmer, rancher, or political subdivision.

(3)(A) Any agreement entered into by the Secretary pursuant to paragraph (1) of this subsection shall require the farmer, rancher, or political subdivision for whom the well is constructed to pay to the United States the reasonable cost of such construction, with interest, over such number of years, not to exceed thirty, as the Secretary deems appropriate. The rate of interest shall be that rate which the Secretary determines would apply if the amount to be repaid was a loan made pursuant to section 7(b)(2) of the Small Business Act [15 USCS 636(b)(2)]

(B) The Secretary shall not construct any well pursuant to this subsection unless the farmer, rancher, or political subdivision for whom the well is being constructed has obtained, prior to construction, all necessary State and local permits.

(4) The Federal share for the transportation of water pursuant to paragraph (2) of this subsection shall be 100 per centum.

(5) For purposes of this subsection-

(A) the term "construction" includes construction, reconstruction, or repair;

(B) the term "distressed area" means an area which the Secretary determines due to drought conditions has an inadequate water supply which is causing, or is likely to cause, a substantial threat to the health and welfare of the inhabitants of the area including threat of damage or loss of property;

(C) the term "political subdivision" means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over the water supply of such public body;

(D) the term "reasonable cost" means the lesser of (i) the cost to the Secretary of constructing a well pursuant to this subsection exclusive of the cost of transporting equipment used in the construction of wells, or (ii) the cost to a private business of constructing such well;

(E) the term 'Secretary' means the Secretary of the Army, acting through the Chief of Engineers; and

(F) the term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(c) LEVEE OWNERS MANUAL.-

(1) In general. Not later than one year after the date of the enactment of this subsection, in accordance with chapter 5 of title 5, United States Code, the Secretary of the Army shall prepare a manual describing the maintenance and upkeep responsibilities that the Corps of Engineers requires of a non-Federal interest in order for the non-Federal interest to receive Federal assistance under this section. The Secretary shall provide a copy of the manual at no cost to each non-Federal interest that is eligible to receive Federal assistance under this section.

(2) Authorization of appropriations. - There is authorized to be appropriated \$1,000,000 to carry out this subsection.

(3) DEFINITIONS. - In this subsection, the following definitions apply:

(A) MAINTENANCE AND UPKEEP. - The term "maintenance and upkeep" means all maintenance and general upkeep of a levee performed on a regular and consistent basis that is not repair and rehabilitation.

(B) REPAIR AND REHABILITATION. - The term 'repair and rehabilitation' -

(i) means the repair or rebuilding of a levee or other flood control structure, after the structure has been damaged by a flood, to the level of protection provided by the structure before the flood; but

(ii) does not include -

(I) any improvement to the structure; or

(II) repair or rebuilding described in clause (i) if, in the normal course of usage, the structure becomes structurally unsound and is no longer fit to provide the level of protection for which the structure was designed.

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## Glossary of Acronyms and Terms

### Section I. Acronyms.

**AAR** - After Action Report  
**ACOM** - Atlantic Command. (Obsolete term. See USJFCOM.)  
**AFARS** - Army FAR Supplement  
**AR** - Army Regulation  
**ASA(CW)** - Assistant Secretary of the Army for Civil Works  
**BCR** - Benefit Cost Ratio  
**BPP** - Bank Protection Project  
**C&P** - Cooperation and Participation Agreement. Obsolete term, see *CA*.  
**CA** - Cooperation Agreement  
**CAT** - Crisis Action Team  
**CEAP** - Corps of Engineers Automation Plan  
**CECW-OE** - The HQUSACE Civil Emergency Management Branch  
**CEI** - Continuing Eligibility Inspection  
**CEQ** - Council on Environmental Quality  
**CERCLA** - Comprehensive Environmental Response, Compensation and Liability Act  
**CFR** - Code of Federal Regulations  
**CFS** - Cubic feet per second.  
**CG** - Commanding General  
**CONUS** - Continental United States (i.e., the contiguous 48 states)  
**CONUSA** - Continental United States Army  
**CRREL** - Cold Regions Research and Engineering Laboratory  
**CWA** - Clean Water Act  
**CWIS** - Civil Works Information System (See also PWI.)  
**CZM** - Coastal Zone Management  
**dbh** - diameter at breast height  
**DCO** - Defense Coordinating Officer  
**DFAR** - Defense FAR Supplement  
**DFO** - Disaster Field Office  
**DLA** - Defense Logistics Agency  
**DOC** - Department of Commerce  
**DOD** - Department of Defense  
**DOE** - Department of Energy  
**DOI** - Department of Interior  
**DOMS** - Directorate of Military Support  
**DOT** - Department of Transportation  
**DSR** - Damage Survey Report

**E&D** - Engineering and Design  
**EC** - Engineer Circular  
**ECA** - Evaluation and Corrective Action  
**EDA** - Economic Development Administration  
**EFARS** - Engineer FAR Supplement  
**EM** - Engineer Manual, Emergency Manager, Emergency Management  
**EMHV** - Emergency Management High Visibility  
**EO** - Executive Order  
**EOC** - Emergency Operations Center  
**EP** - Engineer Pamphlet  
**EPA** - Environmental Protection Agency  
**ER** - Engineer Regulation  
**ERDC** - Engineer Research and Development Center  
**ESF** - Emergency Support Function  
**FAD** - Funding Authorization Document  
**FAR** - Federal Acquisition Regulation  
**FCCE** - Flood Control and Coastal Emergencies  
**FCO** - Federal Coordinating Officer  
**FCW** - Flood Control Works  
**FEMA** - Federal Emergency Management Agency  
**FmHA** - Farmers Home Administration  
**FOA** - Field Operating Agency  
**FONSI** - Finding of No Significant Impact  
**FORSCOM** - Forces Command  
**FRP** - Federal Response Plan  
**GIS** - Geographic Information Systems  
**GSA** - General Services Administration  
**HBPP** - Hurricane/Beach Protection Project  
**HFSSB** - High Frequency Single Side Band  
**HHS** - Health and Human Services  
**HMT** - Hazard Mitigation Team  
**HQUSACE** - Headquarters, U.S. Army Corps of Engineers  
**HSPP** - Hurricane or Shore Protection Project  
**HUD** - Housing and Urban Development  
**ICW** - Inspection of Completed Works  
**IEI** - Initial Eligibility Inspection  
**ILTF** - Interagency Levee Task Force  
**JTF** - Joint Task Force  
**LERRD's** Lands, easements, rights-of-way, relocations, and borrow and dredged or excavated materials disposal areas.



**LOA** - Lead Operating Agency  
**LCO** - Lead Corps Official (for ILTF)  
**LNO** - Liaison Officer  
**MOA** - Memorandum of Agreement  
**MSC** - Major Subordinate Command (synonymous with Division)  
**MSCA** - Military Support to Civil Authorities  
**NCP** - National Contingency Plan (National Oil and Hazardous Substance Pollution Contingency Plan)  
**NED** - National Economic Development  
**NEPA** - National Environmental Protection Act  
**NHPA** - National Historic Preservation Act  
**NRCS** - Natural Resources Conservation Service  
**NRT** - National Response Team  
**NSAP** - Nonstructural Alternatives Project  
**NWP** - Nationwide Permit  
**NWS** - National Weather Service  
**O&M** - Operations and Maintenance  
**OCE-P** - Office of the Chief of Engineers, Pentagon  
**OMB** - Office of Management and Budget  
**OMRR&R** - Operation, Maintenance, Repair, Replacement, and Rehabilitation  
**OSC/RPM** - On Scene Coordinator/Remedial Project Manager  
**PACOM** - Pacific Command  
**PCA** - Project Cooperation Agreement.  
**PDA** - Preliminary Damage Assessment  
**PIR** - Project Information Report  
**PL** - Public Law  
**PWI** Project Work Item.  
**RD** - Regional Director  
**RIP** - Rehabilitation and Inspection Program  
**RS/GIS** - Remote Sensing/Geographic Information System  
**RRT** - Regional Response Team  
**RSC** - Readiness Support Center  
**S&A** - Supervision and Administration  
**S&I** - Supervision and Inspection  
**SAACONS** - Standard Army Automated Contracting System  
**SBA** - Small Business Administration  
**SCS** - Soil Conservation Service (See NRCS)  
**SITREP** - Situation Report  
**SOP** - Standard Operating Procedure  
**SPOTREP** - Spot Report

**SPS** - Standard Procurement System  
**STU** - Secure Telephone Unit  
**TEECA** - Training, Evaluation, Exercise, and Corrective Action  
**TVA** - Tennessee Valley Authority  
**USACE** - U.S. Army Corps of Engineers  
**USACOM** - United States Atlantic Command  
**USC** - United States Code  
**USCG** - United States Coast Guard  
**USJFCOM** - US Joint Forces Command  
**USDA** - United States Department of Agriculture  
**US&R** - Urban Search and Rescue  
**WPA** - Works Progress (later Work Projects) Administration  
**WRDA** - Water Resources Development Act

## **Section II. Terms.**

**A-B-C's or a-b-c's.** A generic term referring to the items of local cooperation the public sponsor is required (as provided for in the CA) to provide as a condition for receiving Corps assistance. For most types of Corps assistance, the a-b-c's the public sponsor must agree to provided are (a) provide without cost to the United States all lands, easements, rights of way, relocations, and borrow and dredged or excavated material disposal areas necessary for the authorized work; (b) hold and save the United States free from all damages arising from construction, operation, maintenance, repair, replacement, and rehabilitation of the work, except for damages due to the fault or negligence of the United States or its contractors; and (c) operate, maintain, repair, replace, and rehabilitate the work after its completion. Additional items of local participation may be required, such as the removal of temporary emergency flood damage reduction measures. MSC's and districts are not authorized to change or delete a-b-c requirements, without written permission from HQUSACE.

**Active.** A status applied to FCW concerning participation in the Rehabilitation and Inspection Program under authority of PL 84-99. An Active project must have met USACE criteria for entry and been entered into the RIP. Only Active projects may receive Rehabilitation Assistance to repair damages caused by a flood event or coastal storm.

**Agricultural Levee.** A levee that provides at least a 5-year flood protection to predominantly agricultural areas or agribusinesses. May be Federal or non-Federal.

**Bank Protection Project.** Any project or technique used to prevent erosion of or failure of a streambank.

**Beach Nourishment Projects.** Projects designed and constructed to build or maintain a beach by placement of material to nourish and stabilize the shoreline. See HSPP.

**Betterment.** During repair of an FCW, any construction effort that increases the area protected, provides features that did not exist prior to the flood event, or increases the degree or level of protection provided by the FCW. Examples of betterments include increasing the height of a levee, or providing riprap where none previously existed.

**Category 100, 200, etc.** Feature numbers in the appropriation structure for FCCE under Appropriation 96x3125. For authoritative definitions, refer to ER 11-1-320. For informational purposes, categories are:

(a) Category 100. Disaster Preparedness. MSC and district disaster preparedness programs, to include salaries of emergency management personnel, supplies, training, etc. Also includes EOC facilities, and funding for the Readiness Support Center.

(b) Category 200. Emergency Operations. Includes Emergency Response and Post Flood Response, field investigations during flood events, and preparation of after action reports.

(c) Category 300. Rehabilitation. Rehabilitation Assistance to Federal and non-Federal FCW's and Federally constructed hurricane and shore protection projects, associated investigation costs, etc. Includes inspection of non-Federal FCW, and maintenance of the FCW database.

(d) Category 400. Emergency Water. Assistance to drought distressed regions or localities with a contaminated source of water supply, and costs of associated investigations.

(e) Category 500. Advance Measures. Assistance against an identified, imminent flood threat, and costs of associated investigations.

(f) Category 600. Hazard Mitigation costs of participation in an activated Interagency HMT under the direction of FEMA.

**C.F.S. (Cubic Feet per Second).** Also **cfs**. The amount of flow passing a given point in a stream channel. One cubic foot per second is equivalent to approximately 7.5 gallons per second.

**Channel.** A natural or artificial watercourse with definite bed and banks to confine and conduct flowing water.

**Channel Capacity.** The maximum flow that can pass through a channel without overflowing the banks.

**Class.** A subdivision of categories in the appropriation structure. For example, category 400 is divided into Classes 410, 420, and 430. See also *Category*.

**Contingency Contracting.** The necessity for protection or restoration of flood protection projects requires immediate actions. To meet these requirements, justification exists for contracting procedures other than full and open competition (as allowed by FAR 6.302.) These contingency or emergency contracting procedures should comply with FAR 6.302-2.

**Cooperation Agreement.** An agreement entered into by a District Commander (acting as the agent for the Department of the Army on behalf of the United States Government) and the public sponsor for the purpose of identifying each party's rights and obligations concerning the expenditure of Federal funds under authority of PL 84-99.

**Deliberate Levee Cut.** A deliberate cut made in a levee, with the intention of either protecting the integrity of the structure (or an adjacent structure) from actual or forecasted river stages, or reducing the overall anticipated damages expected to occur to the existing structure by the current flood event. See also Dewatering Levee Cut.

**Dewatering Levee Cut.** A deliberate cut in a levee used as an engineering/construction method to dewater the area behind the levee when pumping this contained water is not considered a feasible, timely, or economical alternative. A dewatering levee cut is a type of deliberate levee cut that is never eligible for PL 84-99 assistance.

**Dike.** In most areas of the United States, a structure (earth, rock, or timber) built part way across a river for the purpose of maintaining a navigation channel. In other areas, the term is used synonymously with levee. Generally constructed of earth, stone, timber, concrete, or similar material.

**Division.** See Major Subordinate Command.

**Drainage Structure.** Generally, any feature or system (e.g., culverts) constructed for the purpose of discharging surface water run-off. Such structures are components of interior drainage systems.

**Drought Distressed Area.** An area that the ASA(CW) has determined to have an inadequate water supply that is causing, or is likely to cause, a substantial threat to the health and welfare of the inhabitants of the area, including a threat of damage or loss of property.

**Eligible Levee.** A levee categorized as "active" in the RIP, for which USACE can provide assistance under authority of PL 84-99 to repair damage caused by a flood event.

**Emergency.** A situation involving a natural or technological disaster that would result in an unacceptable hazard to human life, a significant loss of property, or significant economic hardship.

**Emergency Assistance.** All USACE activities that assist a non-Federal entity that use FCCE funding from Category 200, 300, 400, and/or 500.

**Emergency Preparedness.** All those activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions that would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard.

**Federally Authorized Projects/Federal Projects.** An FCW project built by USACE that was authorized for construction by Congress or by USACE continuing authorities (e.g., Section 205.)

**Federal FCW/Federal Levee/Federal Dam.** A Federally authorized FCW, levee, levee system, or dam project. FCW constructed by non-Federal interests, or other (non-USACE) Federal agencies, and incorporated into a Federal system by specific Congressional action (i.e., United States law) are also designated as Federal FCW's. Construction by, or previous rehabilitation or reconstruction of a non-Federal FCW by a Federal Agency (to include USACE, FEMA, NRCS, and EDA) does not make the levee a Federal levee. Levees constructed under the authority of the Works Progress Administration are not Federal levees. Section 14 projects constructed under authority of PL 79-526 are not Federal FCW's.

**Federal Response Plan (FRP).** The FRP is the Federal government's plan to address the consequences of any disaster or emergency situation in which there is a need for Federal response assistance under authorities of the Stafford Act, as amended. The FRP is an interagency document produced under the leadership and direction of the Federal Emergency Management Agency. USACE is the Federal agency responsible for Emergency Support Function #3, Public Works and Engineering. FRP planning and preparedness activities in USACE are funded by the FCCE account under PL 84-99 authority.

**Fiscal Completion.** Once all expenses have been charged and all financial activities for a specific project are complete, the funding accounts that support the project are closed, and the project is then considered fiscally complete.

**Flood.** Abnormally high water flows or water level that overtops the natural or artificial confining boundaries of a waterway. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of river and/or tidal waters and/or the unusual accumulations of waters from any sources.

**Flood Control Project.** See flood control work.

**Flood Control Work(s) (FCW).** Structures designed and constructed to have appreciable and dependable effects in preventing damages caused by irregular and unusual rises in water level. FCW may include levees, channels, floodwalls, dams, and Federally authorized and constructed hurricane or shore protective structures. Structures designed and constructed to protect against salt water intrusion or tidal fluctuations, channel alignment, navigation, recreation, fish and wildlife, land reclamation, or to protect against land erosion are not considered to be FCW's. A riprap bank erosion control structure is not considered to be a flood control work.

**Flood Fighting.** Actions taken immediately before or during a flood to protect human life and to reduce flood damages, such as evacuation, emergency sandbagging and diking, and providing assistance to flood victims.

**Flood Plain.** Any normally dry land area that is susceptible to being inundated by any natural source, such as a stream, during floods. USACE, as a matter of policy, encourages local governments to zone their flood plains against development and thereby avoid property damage and reduce obstruction to passage of floodwaters.

**Flood Stage.** The water surface elevation of a river, stream, or body of water, above which flooding and damages normally begin to occur, normally measured with respect to a specific reference gage. Flood stage is normally the level at which a river overflows its banks. Flood stage for any particular geographic area is unique to that geographic area.

**Flooding.** See Flood.

**Floodwall.** A type of flood control work usually constructed of stone or reinforced concrete, and which may occasionally have plastic or steel components. Floodwalls are generally constructed in urban areas where insufficient area exists to construct earthen levees.

**Floodway.** Designated land left essentially clear of development, for the purpose of passing floodwaters. In some areas, floodway is used to designate the 100-year flood plain.

**Freeboard.** A factor of safety usually expressed in feet above a flood level for purposes of designing flood protection facilities and for floodplain management. Freeboard tends to compensate for the many uncertain factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge obstructions, and the hydrological effect of urbanization of the watershed. Freeboard is being replaced as a technique through risk and uncertainty management.

**Haul Road.** Any privately owned road used by Corps vehicles or Corps contractor's vehicles to haul rock, earth fill, or other borrow materials to the site of a repair/floodfight/rehabilitation effort, or on which empty vehicles return. This includes haul roads specifically constructed for a repair/rehabilitation effort. Also included are levee crown roads and levee patrol roads that are not public roads, if their principal purpose is for access for maintenance, inspection, and floodfight purposes. All public roads are specifically excluded, to include any public roads that are situated on levees.

**Hazard.** An emergency or disaster resulting from a natural hazard or an accidental or man-caused event.

**Hazard Mitigation.** Any activity that permanently eliminates or reduces the long-term vulnerability to life and property from natural and technological hazards. Hazard mitigation refers to the concept of decreasing the severity of the effects of flooding on people and property by reducing the cause, occurrence, exposure, and effects of the flood hazard.

**Hazard Mitigation Team.** An interagency team assembled under FEMA leadership to investigate and document strategies to reduce or avoid Federal expenditures resulting from flooding situations or other types of natural disasters.

**Hundred Year Flood.** More accurately referred to as a "one percent chance flood," a flood of a magnitude that, according to historical statistics, has one chance in one hundred of occurring in any given year.

**Hurricane/Shore Protection Project.** A type of FCW project designed and constructed to prevent damage and flooding caused by a hurricane or tsunami, and their associated storm surges.

**Hydraulics.** The science of dealing with the mechanical properties of liquids that describes the specific pattern and rate of water movement in the environment.

**Hydrology.** The science dealing with properties, distribution, and circulation of water on and below the surface of the land and in the atmosphere.

**Imminent Threat.** A subjective, statistically supported evaluation of how quickly a threat scenario can develop, how likely that threat is to develop in a given geographical location, and how likely the threat will produce catastrophic consequences to life and improved property. Implicit in the timing aspect can be considerations of time (e.g., a storm front's predicted path) or season (e.g., a snowpack that will melt in the coming spring runoff) or of known cyclical activities (e.g., rising water levels in the Great Lakes), but occurring inside the normal Corps decision and execution cycle for small project construction.

**Inactive.** A status applied to FCW concerning participation in the RIP. An Inactive project is, simply, any project that is not Active. It includes formerly Active FCW that left Active status in the RIP, either voluntarily or involuntarily, as well as those FCW that have never been Active in the RIP. See also "Active."

**Infiltration.** That portion of precipitation that is absorbed by the land surface.

**Initial Repair.** A hastily effected temporary repair of a breached levee that provides a 10- to 25-year level of protection for a short (less than 12 month) period of time until the permanent repair can be designed and executed.

**Interior Drainage.** Natural or modified outflow of streams within a levee'd area for the conveyance of run-off. Interior drainage systems are not components of flood control works.

**Lead Operational Authority.** Within military commands, this is a delegated authority to plan and execute missions for a higher headquarters.

**Levee.** A structure, normally of earth or stone, built generally parallel to a river to protect land from flooding. A levee is a complete unit, designed and intended for flood control. A levee (excluding a ring levee) is always tied to high ground at both ends.

**Level of Protection.** The degree of protection against flooding provided by an FCW, normally expressed in terms of the cyclical flood-level against which protection is provided.

**Local Cost Share.** That portion of the cost of undertaking assistance authorized under PL 84-99 (e.g., repairing a damaged Active levee) for which the public sponsor is responsible. The local cost share may be paid either in cash or as work-in-kind, or as a combination of the two.

**Local Sponsor.** See Public Sponsor.

**LERRD's** Lands, easements, rights-of-way, relocations, and dredged materials disposal areas.

**Major Flood.** A flood event determined to be a 100-year event or better, or a series of weather events over a short period of time (normally seven days or less), which causes loss of human life and/or property damage exceeding \$1 million.

**Major Subordinate Command.** The intermediate level USACE headquarters organization, subordinate to HQUSACE, and above the district-level. Also Division.



**Military Support to Civil Authorities.** Those activities and measures taken by DOD components to foster mutual assistance and support between DOD and any civil government agency in planning or preparedness for, or in the application of resources for response to, the consequences of civil emergencies or attack. See DODD 3025.1.

**National Contingency Plan (40 CFR Part 300.)** A Federal plan intended to effectuate the powers and responsibilities for responding to nonradiological oil and hazardous substance discharges, releases, or substantial threats of releases as specified in the CERCLA, as amended, and the authorities established by Section 311 of the CWA, as amended.

**Natural Disaster.** Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe that causes, or which may cause, substantial damage or injury to civilian property or persons.

**Navigation Channel.** The channel maintained in a body of water for the purpose of assuring a depth adequate for commercial vessels.

**Non-Federal Levee/Non-Federal Project/Non-Federal FCW.** A flood control work not authorized by Congress, or under other Federal agency authority. Works Progress Administration (WPA) projects are considered non-Federal FCW for the application of PL 84-99 authority.

**Non-Federal Sponsor.** See public sponsor.

**Nonstructural Alternative Project.** A type of project, authorized by an amendment to PL 84-99 contained in WRDA 96, that, in lieu of a structural rehabilitation effort, allows for restoration of floodways, flood plains, and/or the reduction of future flood damages and associated FCW rehabilitation costs.

**Political Subdivision.** A city, town, borough, township, county, parish, district, association, or other public body created by or pursuant to state law and having jurisdiction over the water supply of such public body.

**Project.** A generic term used to describe the planned or executed construction of a structure or system.

**Project Cooperation Agreement.** An agreement entered into by a District Commander (acting as the agent for the Department of the Army on behalf of the United States Government) and the public sponsor for the purpose of identifying each party's rights and obligations concerning the expenditure of Federal funds under USACE authority other than that of PL 84-99. See also Cooperation Agreement.

**Public Road.** Any road available for general use by the public. Any road for which a public agency or public entity has ongoing and/or statutory maintenance responsibility.

**Public Sponsor.** A public sponsor must be a public entity that is a legally constituted public body with full authority and capability to perform the terms of its agreement as the non-Federal partner of the Corps for a project, and able to pay damages, if necessary, in the event of its failure to perform. A public sponsor may be a State, county, city, town, Federally recognized Indian Tribe or tribal organization, Alaska Native Corporation, or any political subpart of a State or group of states that has the legal and financial authority and capability to provide the necessary cash contributions and lands, easements, rights-of-way, relocations, and borrow and dredged or excavated material disposal areas (LERRD's) necessary for the project.

**Reach.** A section or segment of a levee, which in and of itself does not provide complete protection against a flood. Also, a segment of a river, typically indicated by reference to river mile markers or geographical features.

**Rehabilitation and Inspection Program (RIP).** A component of the Civil Emergency Management Program concerned with the inspection and rehabilitation of FCW's.

**Rehabilitation Assistance.** Repair and restoration under authority of PL 84-99 of an Active FCW damaged in a flood event.

**Rehabilitation Project.** An action or series of actions focused on the repair of an Active flood control work to return the FCW's level of protection to its pre-flood/pre-storm level.

**Repair and Rehabilitation.** The terms "repair", "rehabilitation", or "repair and rehabilitation" mean the repair or rebuilding of a flood control structure, after the structure has been damaged by a flood, hurricane, or coastal storm, to the level of protection provided by the structure prior to the flood, hurricane, or coastal storm. The terms do not include improvements (betterments) to the structure, nor does "repair and rehabilitation" include any repair, reconstruction, or rehabilitation activities of a flood control structure which, in the normal course of usage, has become structurally unsound and is no longer fit to provide the level of protection for which it was designed.

**Riverine.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Run-off.** That portion of precipitation, which is not intercepted by vegetation, absorbed by the land surface or evaporated and thus flows overland into a depression, stream, lake, or ocean.

**SAACONS.** The Standard Army Automated Contracting System, used for comprehensive management of the contracting process. SAACONS is being replaced by SPS.

**Saturation.**

(1) Soil Saturation. A condition in soil in which all spaces between the soil particles are filled with water. Such conditions normally occur after prolonged periods of rainfall and/or snowmelt. The result of a saturated condition is that any additional rainfall or snowmelt runs off into streams and rivers instead of soaking into the ground.

(2) Levee saturation. Soil saturation that has occurred in an earthen levee because of floodwaters remaining above flood stage for extremely long periods of time. This condition can lead to catastrophic failure of the levee.

**Secondary Levee.** A levee that is riverward of the main or principal levee. The level of protection of a secondary levee is always less than the level of protection provided by the main levee.

**Stafford Act.** The common name for the principal emergency management authority of the Federal Emergency Management Agency. Codified as 42 U.S.C. 5121 et seq.

**SPS.** The Standard Procurement System, used for comprehensive management of the contracting process. This new system is replacing SAACONS.

**Stream.** A body of water flowing in a definite natural or manmade course that has the potential to flood. The term stream refers to rivers, streams, creeks, brooks, etc., and includes intermittent streams that are subject to flooding.

**Substantial Property Damage.** Damage caused by a flood event, the value of which generally exceeds \$1 million.

**Unusual Flooding.** For use with Advance Measures, a subjective determination of the potential level of flooding that considers potential to approach an area's flood of record, a catastrophic level of flooding, or a greater than 50-year level of flooding.

**Urban areas.** Cities, towns, or other incorporated or unincorporated political subdivisions of States that provide general local government for specific population concentrations, and occupy an essentially continuous area of developed land containing such structures as residences, public and commercial buildings, and industrial sites.

**Urban Levee.** A levee that provides a high degree of flood protection (10 year or greater) to a predominantly urban area.

**Work-in-Kind.** That portion of a public sponsor's cost share to rehabilitate a non-Federal FCW that is a non-cash contribution. The work-in-kind may be in the form of labor, equipment, supplies, and/or services. Labor is defined as blue collar-type of work normally paid on an hourly wage basis, comparable to Federal Wage Grade positions.