



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON DC 20314-1000

24 June, 2015

CECW-P

MEMORANDUM FOR Commanders, Major Subordinate Commands

SUBJECT: Model Watershed Cost Share Agreement

1. References:

- a. Model Agreement For Cost Shared Watershed And River Basin Assessments, 28 May 2015 (Enclosure 1);
- b. OASA(CW) Memorandum, dated 2 Apr 2015, subject: Model Feasibility Cost Sharing Agreements (Enclosure 2);
- c. CECW-PC Memorandum dated 15 June 2007, subject: Approval of Model Feasibility Cost Sharing Agreement and Delegation of Approval and Execution Authority for Feasibility Cost Sharing Agreements for Studies of Proposed Projects That Will Require Specific Authorization; for Studies of Modifications that are Beyond the Scope of the Existing Project Authorization, and for Studies of Projects Authorized Without a Feasibility Study (Enclosure 3).

2. Effective immediately, the enclosed model agreement (reference 1a.) must be used for all watershed and river basin assessments conducted under the authority of Section 729 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 2267a) and other applicable authorities for assessment of water resources (e.g., an assessment under Section 203 of the Water Resources Development Act of 2000, as amended (33 U.S.C. 2269)) that are cost shared 75 percent Federal and 25 percent non-Federal.

3. The model agreement provides that within 15 days of execution of the agreement, the non-Federal sponsor must provide \$25,000 for initiation of the study, and additional funds if needed to develop the project management plan (PMP). Once the PMP is developed, or if a PMP currently exists, the non-Federal sponsor must provide its proportional funding and/or in-kind contributions consistent with Federal funding.

4. The attachment to reference 1a. includes optional language. Use of this optional language, as appropriate, is not considered a deviation. The procedures for coordinating, review, approval and execution of a Watershed Cost Share Agreement and its amendments are addressed in paragraph 3, 4 and 5 of reference 1c.

5. The Headquarters Regional Integration Team should be advised of any signing

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ceremony requested by the non-Federal sponsor, and notification is required if the presence of the Assistant Secretary of the Army for Civil Works is requested. Signing ceremonies may not be scheduled until the agreement has been approved.

Encls

A handwritten signature in black ink, appearing to read "Theodore A. Brown". The signature is fluid and cursive, with a large initial "T" and "B".

Theodore A. Brown, P.E.
Chief, Planning and Policy Division
Directorate of Civil Works



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

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MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Approval of Model Feasibility Cost Sharing Agreement and Delegation of Approval and Execution Authority for Feasibility Cost Sharing Agreements for Studies of Proposed Projects That Will Require Specific Authorization, for Studies of Modifications That Are Beyond the Scope of the Existing Project Authorization, and for Studies of Projects Authorized Without a Feasibility Study

1. Reference: Assistant Secretary of the Army for Civil Works (ASA(CW)) memorandum to the Director of Civil Works, dated 05 June 2007, Subject: Model Feasibility Cost Sharing Agreement for Studies of Proposed Projects That Will Require Specific Authorization and for Studies of Modifications That Are Beyond the Scope of the Existing Project Authorization (enclosure 1).
2. Effective today, the enclosed model feasibility cost sharing agreement (FCSA) (enclosure 2) shall be used for cost shared feasibility studies being undertaken in accordance with Section 105(a) of the Water Resources Development Act of 1986, Public Law 99-662, as amended, for studies of proposed projects that will require specific authorization; for studies of modifications that are beyond the scope of the existing project authorization; and for studies of projects authorized without a feasibility study. The new model includes: (a) general updates of the language in most articles, similar to those incorporated into the other recently approved models; (b) additional language on determining the value of, and limitations on affording credit for, non-Federal in-kind contributions; and (c) a reduction in the non-Federal sponsor's cost share requirement pursuant to Section 1156 of the Water Resources Development Act of 1986, Public Law 99-662. Selection and use of the optional language is not considered a deviation from the model. If you have already substantially completed negotiations with a non-Federal sponsor using the model FCSA dated March 1997, please contact your HQUSACE Regional Integration Team (RIT) in Washington for guidance on how to proceed.
3. The basis for delegating authority to execute FCSAs, as provided for in this memorandum, is the use of models, whenever it is practical to do so. The use of a model in the development of individual FCSAs should help to streamline study implementation in a way that also achieves national consistency, policy compliance, legal sufficiency, and equitable treatment of study sponsors. While these attributes favor the use of models, it is also recognized that deviations from the model may be appropriate in certain cases. The Project Manager should work collaboratively and expeditiously with the non-Federal sponsor to develop a FCSA using the subject model without deviation or adapt it, as necessary, for the particular study. District offices are encouraged to coordinate early resolution of deviations from the subject model through the vertical team so that studies can be implemented on schedule.

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4. The following procedures should be used for review and approval of FCSAs and FCSA amendments for cost shared feasibility studies of proposed projects that will require specific authorization; for cost shared feasibility studies of modifications that are beyond the scope of the existing project authorization; and for studies of projects authorized without a feasibility study. The documentation, including, but not necessarily limited to, the Non-Federal Sponsor's Self-Certification of Financial Capability for Agreements, and the Certificate of Legal Review, that is necessary for the MSC to review and approve the agreement in accordance with the following paragraphs, shall be prepared and forwarded for review to the MSC. A copy of all of the necessary documentation shall be placed in the project file prior to approval by the MSC or District Commander.

a. The responsibility for review and approval of a FCSA that does not deviate from the subject model is delegated to the MSC Commander and may be further delegated to the District Commander, Division Counsel concurrence, or District Counsel concurrence if the approval authority is further delegated to the District Commander, that the FCSA does not deviate from the subject model is required prior to approval.

b. The MSC Commander also is delegated the responsibility for review and approval of non-policy and non-substantive deviations from the subject model. This authority may not be further delegated. Division Counsel review of any such deviations and a Division Counsel recommendation to approve such deviations are required prior to approval by the MSC Commander. Where there is a question whether the deviation is policy related or substantive, HQUSACE is available for informal consultation.

c. Feasibility Cost Sharing Agreements with substantive deviations or deviations involving policy issues, unique circumstances, or controversial matters shall be coordinated with the appropriate vertical team (District, MSC, HQUSACE, and, if necessary, the Office of the Assistant Secretary of the Army (Civil Works)). Each vertical team member shall be provided a copy of the proposed FCSA with the deviations indicated, the rationale for the deviations, and the written concurrence of District and Division Counsel via e-mail. FCSAs with these types of deviations require approval by HQUSACE in Washington. Early coordination of these proposed deviations with the vertical team is encouraged.

d. Review and approval of any amendment to an existing FCSA to address non-policy and non-substantive changes, such as a revision of total study costs or revision of study tasks and costs due to one of several sponsors electing to terminate its responsibilities under the FCSA, is delegated to the MSC Commander and may not be further delegated. Division Counsel review of any such amendment and a Division Counsel recommendation to approve such amendment is required prior to approval by

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the MSC Commander. Where there is a question whether the changes to the existing FCSA are policy related or substantive, HQUSACE is available for informal consultation.

e. If a FCSA amendment incorporates substantive revisions to an existing FCSA or any revisions to an existing FCSA that involve policy issues, unique circumstances, or controversial matters, the amendment shall be coordinated with the appropriate vertical team (District, MSC, HQUSACE, and, if necessary, the Office of the Assistant Secretary of the Army (Civil Works)). Each vertical team member shall be provided a copy of the proposed amendment, the rationale for the amendment, and the written concurrence of District and Division Counsel via e-mail. These FCSA amendments require approval by HQUSACE in Washington. Early coordination of the proposed amendment with the vertical team is encouraged.

f. The District Commander is authorized to execute each FCSA and FCSA amendment after its approval, including agreements that require MSC or HQUSACE approval. However, the ASA(CW) retains the authority to sign any agreement of his or her choosing.

5. The following procedures should be used for execution of FCSAs and FCSA amendments for cost shared feasibility studies of proposed projects that will require specific authorization; for cost shared feasibility studies of modifications that are beyond the scope of the existing project authorization; and for studies of projects authorized without a feasibility study. After approval of the FCSA or FCSA amendment by the appropriate authority, the district should prepare a minimum of four final originals for signature by the non-Federal sponsor. After signature by the non-Federal sponsor, the District Counsel shall review the non-Federal signatures on the FCSA or FCSA amendment, the Certificate of Authority, and the Certification Regarding Lobbying to ensure that the FCSA or FCSA amendment has been signed and dated by the non-Federal sponsor in all the appropriate locations. After completion of such review and a recommendation to proceed with signature by the District Counsel, the District Commander shall execute the FCSA or FCSA amendment. The FCSA or FCSA amendment shall be dated with the date the District Commander executes the agreement. The district shall retain two copies of the executed FCSA or FCSA amendment and the remaining copies should be provided to the non-Federal sponsor. An electronic copy of the executed FCSA or FCSA amendment, with all appropriate signatures, should be provided to the MSC and the appropriate HQUSACE RIT within 14 days after execution.

6. The other model for cost shared feasibility studies for use on Continuing Authority Program and other program authorities that do not require additional authorization to implement a project and its accompanying implementation memo will be provided in separate correspondence as it is approved.

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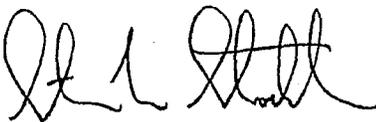
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7. The districts and the MSC shall advise HQUSACE of any signing ceremonies requested by the non-Federal sponsor, and in particular whether the presence of the ASA(CW) is requested. A signing ceremony should not be scheduled until the FCSA has been approved.

8. Although the new model agreement has been designed to provide the districts and non-Federal sponsors maximum flexibility in negotiating these agreements, there may be additional opportunities to improve upon the models, in particular where a provision is repeatedly requested or needed by non-Federal sponsors. The districts and MSC shall provide this information to HQUSACE so that consideration can be given to revising the model or providing pre-approved deviations.

FOR THE COMMANDER:

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for DON T. RILEY
Major General, USA
Director of Civil Works

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