



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

CECW-P

JUN 08 2016

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Guidance for Section 1024 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) – Authority to Accept and Use Materials and Services

1. Section 1024 of WRRDA 2014 authorizes the Secretary to accept and use materials and services contributed by a non-federal public entity, a nonprofit entity, or a private entity for the purpose of repairing, restoring, or replacing a water resources development project that has been damaged or destroyed as a result of an emergency if the Secretary determines that the acceptance and use of such materials and services is in the public interest. It provides that no credit or reimbursement is authorized for such materials or services. Furthermore, it requires submission of a report within 60 days after initiating an activity under this section to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. A copy of Section 1024 of WRRDA 2014 is enclosed.

2. Policy. In accordance with the guidance provided in this memorandum, district commanders are authorized to accept services or materials contributed from a non-federal public entity, a non-profit entity, or a private entity for the purpose of repairing, restoring, or replacing a water resources development project that has been damaged or destroyed as a result of an emergency, if the district commander determines that such acceptance and use is in the public interest. No credit or reimbursement is authorized for such services or materials. Prior to the acceptance and use of materials or services provided under Section 1024, a Response Plan, as more fully described in paragraph 3, must be in place.

a. This guidance applies to federally authorized water resources development projects under construction by the U.S. Army Corps of Engineers (USACE) as well as to projects operated and maintained by USACE.

b. For purposes of this guidance, an emergency includes a natural disaster, storm event, and other acts of God, as well as other events such as accidents or acts of terrorism, that damage project functions and result in substantial and immediate health, safety, economic, or environmental risks or impacts. It does not include a gradually developing, known change in condition, or a failure due to deferred maintenance

c. Materials. Materials, including equipment, must meet USACE standards, and be approved by the district commander or his or her designated representative. Material

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handling, storage, and disposal shall comply with provisions of EM 385-1-1, Safety and Health Requirements Manual. Materials intended as part of permanent repairs shall include a warranty that is transferable to USACE.

d. Services will not be accepted to displace USACE personnel. However, such services may supplement existing staff and may also include work that would not otherwise be accomplished because of USACE funding or personnel limitations.

e. The district commander, or his or her designated representative, shall oversee services being provided by a non-federal entity under Section 1024. However, the non-federal entity bears responsibility for services provided in a negligent manner.

3. Development of a Response Plan. Prior to the acceptance and use of materials or services under Section 1024, the district must have a Response Plan that has been approved by the district commander documenting that a non-federal entity providing services under Section 1024 meets the requirements identified in EM 385-1-1- and other pertinent USACE regulations that are applicable to USACE personnel, as follows.

a. A General Response Plan should be included as an appendix to the project Operational Management Plan (OMP) or Project Management Plan (PMP). The purpose of the General Response Plan is to provide sufficient information to inform Project Operations and non-federal entities of the requirements for providing services and materials in response to a specific emergency action. As a minimum, the General Response Plan is to include a listing of relevant USACE and other regulations documenting: 1) employee qualifications, experiences, training, licenses, and certifications; 2) equipment certification; 3) relevant material and equipment specifications; 4) a general security plan; and 5) a general safety plan for the USACE project.

b. In response to a specific emergency action, a Response Plan is to be developed and approved by the district commander prior to initiation of work by a non-federal entity. The Response Plan should include at a minimum:

(1) A defined scope of services or materials to be provided by each non-federal entity. The scope should describe specific conditions, materials, and equipment required for accomplishing repairs.

(2) A listing of qualified contractors or employees for each non-federal entity.

(3) A listing of privately owned or leased vehicles, vessels, machinery, or other specialized equipment to be used by each non-federal entity that comply with the

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requirements for inspection criteria, safety devices and operational aids, environmental considerations, operating rules, and guarding and safety devices.

(4) A listing of qualified contractors or employees for each non-federal entity authorized to operate, for official use, government-owned or leased vehicles, vessels, machinery or other specialized equipment. Employees or contractors for each non-federal entity must have the proper training, license, and/or experience in accordance with USACE operator permit policies and understanding of the safety requirements to the satisfaction of the district commander before operating a government-owned or leased vehicle, vessel, or equipment. Government authorization policies apply to contractors or employees for each non-federal entity.

(5) A security clearance for all contractors and employees for each non-federal entity must be validated, when appropriate, as determined by the district commander. Individuals may be legal aliens (permanent residents) or foreign exchange students. Any non-U.S. citizen must present his/her Visa (or passport if in the U.S. in tourist status from a visa-waiver country where visas are not required) or U.S. Permanent Resident Card INS Form I-551 (formerly known as Alien Registration Receipt Card) for review and verification. Persons who have been convicted of a violent crime, sexual crime, arson, crime with a weapon, or sale or intent to distribute illegal drugs, or are an organized crime figure will not be utilized as volunteers. Persons awaiting trial or under indictment for any of the crimes listed above will not be utilized as a volunteer until the case has been resolved in the person's favor through the legal process. Use of civilian prison labor from the Federal Bureau of Prisons, and State and County Correctional Systems is beyond the scope of this authorization.

(6) An approved Accident Prevention Plan for each non-federal entity.

4. The acceptance of contributed funds is not authorized by Section 1024. Guidance on the acceptance of contributed funds is provided in the Implementation Guidance for Section 1015 of WRRDA 2014.

5. Reporting. Within 30 days of accepting services and materials from a non-federal entity under Section 1024, the district commander shall submit, through the MSC Commander, to the appropriate Headquarters Regional Integration Team (RIT), a report that includes a description of the activities undertaken, including the costs of such services or materials, and a comprehensive description of how the activities are necessary for maintaining a safe and reliable water resources development project.

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The RIT will transmit the report to the Assistant Secretary of the Army (Civil Works) Secretary for submission to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.



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

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SEC. 1024. AUTHORITY TO ACCEPT AND USE MATERIALS AND SERVICES.

(a) IN GENERAL.—Subject to subsection (b), the Secretary is authorized to accept and use materials and services contributed by a non-Federal public entity, a nonprofit entity, or a private entity for the purpose of repairing, restoring, or replacing a water resources development project that has been damaged or destroyed as a result of an emergency if the Secretary determines that the acceptance and use of such materials and services is in the public interest.

(b) LIMITATION.—Any entity that contributes materials or services under subsection (a) shall not be eligible for credit or reimbursement for the value of such materials or services.

(c) REPORT.—Not later than 60 days after initiating an activity under this section, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

(1) a description of the activities undertaken, including the costs associated with the activities; and

(2) a comprehensive description of how the activities are necessary for maintaining a safe and reliable water resources project.