



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

CECW-P

JUL 13 2017

MEMORANDUM FOR COMMANDERS, SOUTH PACIFIC DIVISION AND
NORTHWESTERN DIVISION

SUBJECT: Implementation Guidance for Section 1186 of the Water Resources Development Act (WRDA) 2016 and for Section 4008 of the Water Resources Reform and Development Act (WRRDA) of 2014, Rural Western Water

1. References.

- a. Engineer Circular 11-2-211; Fiscal Year 2016 execution Engineer Circular.
- b. Draft EC 11-2-215, draft Fiscal Year 2017 execution Engineer Circular.

2. Section 1186 of WRDA 2016 further amends Section 595 of the Water Resources Development Act of 1999 to include a subsection on eligibility, under which assistance shall be made available to all eligible states and areas consistent with program priorities determined by the Secretary in accordance with criteria developed by the Secretary. Under this subsection, priority will be given to projects where the project sponsor is prepared to execute a new or amended agreement, and commence promptly to perform the agreement.

3. Additionally, Section 1186 (h)(3) clarifies that projects under this authority and projects authorized under Section 219 of the Water Resources Development Act of 1992, as amended, shall be considered for new starts on the same basis as any other similarly funded project. This clarification does not change how the U.S. Army Corps of Engineers (Corps) currently determines new starts, under either authority. The Corps allocates funds that are specifically appropriated for environmental infrastructure to the Section 595 program to the eligible states (Idaho, Montana, Nevada, New Mexico, Utah and Wyoming). The overall Section 595 program is the Program, Project or Activity (PPA), except that if Congress identifies a particular state program in the allocation table in the Statement of Managers for a given Fiscal Year (FY), the state program is a PPA with respect to the funding provided in the Act for that FY. Unless Congress has done so for a FY, the funding provided to one state may be moved to another state as a reallocation, which is not considered a reprogramming. Under no circumstances should funds be reallocated without HQUSACE coordination and communication with Congressional interests. A new start designation shall be required to initiate construction of individually-authorized projects funded within programmatic line items. Section 219 projects are individual PPAs and are considered new starts the first time funds are allocated.

CECW-P

SUBJECT: Implementation Guidance for Section 4008 of the Water Resources Reform and Development Act (WRDA) of 2014 and Section 1186 of WRDA 2016, Rural Western Water, Adjustments

4. Section 4008 of WRRDA 2014 amended Section 595 of the Water Resources Development Act of 1999 to: (i) provide technical assistance to small and rural communities in Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming, for water planning and issues relating to access to water resources as an additional form of assistance; (ii) raise the authorization of appropriations limit beginning with Fiscal Year 2001 to a total of \$435 million, and (iii) remove the specific limits previously identified for each state. Section 1186, Section 4008, and the complete Section 595 as amended since WRDA 1999, are enclosed.
5. The South Pacific and Northwestern Division must coordinate with their respective RITs in order to ensure that all future work occurs in the areas currently authorized, and that federal appropriations, no longer limited by state, are prioritized correctly.
6. Questions regarding this implementation guidance should be directed to Ada Benavides, Senior Policy Advisor, Planning and Policy Division, at (202) 761-0415 or Ada.Benavides@usace.army.mil.



JAMES C. DALTON, P.E.
Director of Civil Works

Encls

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SEC. 1186. RURAL WESTERN WATER.

Section 595 of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 383; 128 Stat. 1316) is amended

(1) by redesignating subsection (h) as subsection (i);

(2) by inserting after subsection (g) the following:

"(h) ELIGIBILITY.-

"(1) IN GENERAL.-Assistance under this section shall be made available to all eligible States and locales described in subsection (b) consistent with program priorities determined by the Secretary in accordance with criteria developed by the Secretary to establish the program priorities.

"(2) SELECTION OF PROJECTS.-In selecting projects for assistance under this section, the Secretary shall give priority to a project located in an eligible State or local entity for which the project sponsor is prepared to--

"(A) execute a new or amended project cooperation agreement; and

"(B) commence promptly after the date of enactment of the Water Resources Development Act of 2016.

"(3) RURAL PROJECTS.-The Secretary shall consider a project authorized under this section and an environmental infrastructure project authorized under section 219 of the Water Resources Development Act of 1992 (Public Law 102-580; 106 Stat. 4835) for new starts on the same basis as any other similarly funded project."; and

(3) in subsection (i) (as redesignated by paragraph (1)) by striking "which shall_!" and all that follows through "remain" and inserting "to remain".

SEC. 4008. RURAL WESTERN WATER.

Section 595 of the Water Resources Development Act of 1999 (113 Stat. 383) is amended—

(1) by striking subsection (c) and inserting the following:

“(c) FORM OF ASSISTANCE.—Assistance under this section may be in the form of—

“(1) design and construction assistance for water-related environmental infrastructure and resource protection and development in Idaho, Montana, rural Nevada, New Mexico, rural Utah, and Wyoming, including projects for—

“(A) wastewater treatment and related facilities;

“(B) water supply and related facilities;

“(C) environmental restoration; and

“(D) surface water resource protection and development; and

“(2) technical assistance to small and rural communities for water planning and issues relating to access to water resources.”; and

(2) by striking subsection (h) and inserting the following:

“(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section for the period beginning with fiscal year 2001, \$435,000,000, which shall—

“(1) be made available to the States and locales described in subsection (b) consistent with program priorities determined by the Secretary in accordance with criteria developed by the Secretary to establish the program priorities; and

“(2) remain available until expended.”.

Section 595 of the Water Resources Development Act of 1999, as amended by: Sections 104 and 126 of Division D, Public Law 108-7; Section 117 of Public Law 108-137; Section 121 of Division H, Public Law 108-199; Section 5067 of the Water Resources Development Act of 2007; Section 4008 of the Water Resources Reform and Development Act of 2014; and Section 1186 of the Water Resources Development Act of 2016

SEC. 595. IDAHO, MONTANA, RURAL NEVADA, NEW MEXICO, RURAL UTAH, AND WYOMING.

(a) DEFINITION.—In this section:

(1) RURAL NEVADA.—The term ‘rural Nevada’ means—

(A) the counties of Lincoln, White Pine, Nye, Eureka, Elko, Humboldt, Pershing, Churchill, Storey, Lyon, Carson, Douglas, Mineral, Esmeralda, and Lander, Nevada;

(B) the portions of Washoe County, Nevada, that are located outside the cities of Reno and Sparks; and

(C) the portions of Clark County, Nevada, that are located outside the cities of Las Vegas, North Las Vegas, and Henderson and the unincorporated portion of the county in the Las Vegas Valley.

(2) RURAL UTAH.—The term ‘rural Utah’ means—

(A) the counties of Box Elder, Cache, Rich, Tooele, Morgan, Summit, Daggett, Wasatch, Duchesne, Uintah, Juab, Sanpete, Carbon, Millard, Sevier, Emery, Grand, Beaver, Piute, Wayne, Iron, Garfield, San Juan, and Kane, Utah; and

(B) the portions of Washington County, Utah, that are located outside the city of St. George, Utah.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program for providing environmental assistance to non-Federal interests in Idaho, Montana, rural Nevada, New Mexico, rural Utah, and Wyoming.

(c) FORM OF ASSISTANCE.—Assistance under this section may be in the form of—

(1) design and construction assistance for water-related environmental infrastructure and resource protection and development in Idaho, Montana, rural Nevada, New Mexico, rural Utah, and Wyoming, including projects for—

(A) wastewater treatment and related facilities;

(B) water supply and related facilities;

(C) environmental restoration; and

(D) surface water resource protection and development; and

(2) technical assistance to small and rural communities for water planning and issues relating to access to water resources.

(d) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) LOCAL COOPERATION AGREEMENT.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of project costs under each local cooperation agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of design work completed by the non-Federal interest before entering into a local cooperation agreement with the Secretary for a project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of the costs of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project costs.

(D) LAND, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations provided by the non-Federal interest toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) REPORT.—Not later than December 31, 2001, the Secretary shall submit to Congress a report on the results of the program carried out under this section, including recommendations concerning whether the program should be implemented on a national basis.

(h) ELIGIBILITY.—

"(1) IN GENERAL.—Assistance under this section shall be made available to all eligible States and locales described in subsection (b) consistent with program priorities determined by the Secretary in accordance with criteria developed by the Secretary to establish the program priorities.

"(2) SELECTION OF PROJECTS.—In selecting projects for assistance under this section, the Secretary shall give priority to a project located in an eligible State or local entity for which the project sponsor is prepared to--

"(A) execute a new or amended project cooperation agreement; and

"(B) commence promptly after the date of enactment of the Water Resources Development Act of 2016.

"(3) RURAL PROJECTS.—The Secretary shall consider a project authorized under this section and an environmental infrastructure project authorized under section 219 of the Water Resources Development Act of 1992 (Public Law 102-580; 106 Stat. 4835) for new starts on the same basis as any other similarly funded project.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section for the period beginning with fiscal year 2001, \$435,000,000, to remain available until expended.