

## MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Policy Guidance Letter No. 18, Cost Sharing for Historic Preservation

1. References:

- a. ER 1105-2-100, Planning Guidance Notebook, Chapter 7.
- b. ER 1165-2-131, New Start Construction Projects, Para. 4i.

2. Background- Model Local Cooperation Agreements (LCA's) do not address the subject of cost sharing for historic preservation. A recent review of LCA's found that FOA's are approaching the subject differently. The purpose of this letter is to provide guidance on the subject of cost sharing for historic preservation generally, and in particular to clarify application of cost sharing policies at projects where authorizing documents do not contemplate and specifically provide for Federal and non-Federal cost sharing in connection with the preservation of historic properties.

3. Department of Army Policy.

a. The costs of identifying, surveying, and evaluating historical properties, will be treated as reimbursable planning costs, in accordance with Section 208(1) of P.L. 96-515, (16 USC 469c-2).

(1) Costs of identification, survey, and evaluation activities during feasibility studies will be shared with the study cost sharing sponsor in accordance with Section 105a of WRDA 1986.

(2) Costs of identification, survey, and evaluation activities during or following preconstruction engineering and design (PED) studies will be shared with the project sponsor in accordance with Section 105c of WRDA 1986.

b. The costs of recovery and mitigation activities associated with historic preservation will be treated as non-reimbursable project construction costs, up to the one percent limitation specified in Section 7(a) of P.L. 93-291, (16 USC 469c). Non-reimbursable project costs are to be kept separate from other project construction costs, and are not subject to cost sharing. CECW-RP SUBJECT: Policy Guidance Letter No. 18, Cost Sharing for Historic Preservation.

c. The costs of recovery and mitigation activities associated with historic preservation, which exceed the one percent limitation specified in Section 7(a) of P.L. 93-291, (16 USC 469c), will be treated as follows:

(1) Project sponsors will be asked to pay a portion of the project costs over the one percent limitation, and waivers will be obtained to spend more than the

one percent on recovery and mitigation activities, as specified in Section 208(3) of P.L. 96-515, (USC 16 469c-2). Requests for waivers should be referred to HQUSACE (CECW-P) along with justification.

(2) Once a waiver is obtained, expenditures for recovery and mitigation activities over the one percent limitation will be apportioned on the same basis as other joint and separable costs. The costs assigned to the Federal Government are considered non-reimbursable project construction costs. The costs assigned to the non-Federal sponsor are to be borne entirely by the non-Federal sponsor, and are not to be included in total project construction costs.

4. Application of Policy at Authorized Projects.

a. LCA's should contain appropriate provisions to reflect this policy

b. In the case of projects with executed LCA's, the District Commander shall insure, in the final accounting of project costs, that sponsors are not assigned recovery and mitigation costs for historic preservation up to the one percent limitation.

c. The policy in paragraph 3c(2), with respect to recovery and mitigation activities that exceed the one percent limitation, will not be applied to any project with an executed LCA that assigns all such costs to the Federal Government.

5. Application of Policy at Projects yet to be Authorized.

a. Feasibility reports should recommend that:

(1) The costs of recovery and mitigation activities will be non-reimbursable project construction costs, up to the one percent limitation.

(2) Project sponsors pay a portion of the expenses for recovery and mitigation activities over the one percent limitation as an item of local cooperation.

b. The expenditures over the one percent limitation for recovery and mitigation activities will be apportioned as described in paragraph 3c(2).

6. A status report for Guidance Letters 1 through 17 is enclosed for your information.

FOR THE COMMANDER:

PATRICK J. KELLY  
Brigadier General, USA  
Director of Civil Works

Encl

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