



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers  
WASHINGTON, D.C. 20314-1000

REPLY TO  
ATTENTION OF:

CECW-PG

27 FEB 2001

MEMORANDUM FOR COMMANDERS, MAJOR SUBORDINATE COMMANDS

SUBJECT: Implementation of Sections 203(d)(1) and 204 of the Water Resources Development Act of 2000-Ability to Pay

1. This memorandum is provided for two purposes:
  - a. To provide information to the field on the ongoing efforts in Headquarters, U.S. Army Corps of Engineers to develop new ability to pay rules to implement Sections 203(d)(1) and 204 of the Water Resources Development Act (WRDA) of 2000 and,
  - b. To provide guidance on application of ability to pay considerations to existing studies and agreements, where appropriate.
2. A new draft ability to pay rule is currently being prepared for coordination with the Assistant Secretary of the Army for Civil Works and the Office of Management and Budget that will implement Section 103(m) of WRDA 86, as amended. As it is currently being drafted, it will apply to all purposes identified in Section 204 to avoid a separate rule for each purpose. In addition, it will apply to Indian Tribes and to the non-Federal cost share of feasibility studies as well as non-Federal project costs. The two major criteria used to identify sponsor need are per capita income of the county or counties involved and per capita project cost. Since Indian Tribes are considered sovereign, consideration of per capita income of the pertinent Tribe is expected where National data are available.
3. Until such time as a new ability to pay rule is finalized and published in the Federal Register, the 1995 ability to pay rule for flood control projects as published in the Federal Register (60 FR 5133, Jan. 26, 1995) should continue to apply, where appropriate. To support that application, an economic guidance memorandum will be issued in the near

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future that updates the State and county PCI factors for 1996-1998. For the new purposes identified in WRDA 2000 as well as feasibility studies, consideration of reductions under ability to pay will only apply after a new rule is promulgated.

FOR THE COMMANDER:



JAMES P. JOHNSON  
Chief, Planning and Policy Division  
Directorate of Civil Works

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