



Amite River and Tributaries East of the Mississippi River, Louisiana



Appendix A: Authorized Documents

December 2023

STUDY AUTHORITY

The ART study area is included based on the August 2016 flooding over southeast and south-central Louisiana, and is continuing investigation under the authorization provided by the Resolution of the Committee on Public Works of the United States Senate, adopted on April 14, 1967.

“RESOLVED BY THE COMMITTEE ON PUBLIC WORKS OF THE UNITED STATES SENATE,
That the Board of Engineers for Rivers and Harbors, created under Section 3 of the River and Harbor Act approved June 13, 1902, be, and is hereby requested to review the report of the chief of Engineers on Amite River and Tributaries, Louisiana, published as House Document Numbered 419, Eighty-fourth Congress. And other pertinent reports, with a view to determining whether the existing project should be modified in any way at this time with particular reference to additional improvements for flood control and related purposes on Amite River, Bayou Manchac, and Comite River and their tributaries.” Committee on Public Works, 1967.”

The study is funded by the Bipartisan Budget Act of 2018, H. R. 1892—13, Title IV, Corps of Engineers—Civil, Department of the Army, Investigations, where funds for are being made available for the expenses related to the completion, or initiation and completion, of flood and storm damage reduction, including shore protection studies, which are currently authorized or which are authorized after the date of enactment of this the act, to reduce risk from future floods and hurricanes. The funds are at full Federal expense and funds made available for high-priority studies of projects in states and insular areas with more than one flood related major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S. Code [U.S.C.] 5121 et seq.) in calendar years 2014, 2015, 2016, or 2017.



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

AUG - 9 2018

MEMORANDUM FOR Deputy Commanding General for Civil and Emergency Operations

SUBJECT: Policy Guidance on Implementation of Supplemental Appropriations in the Bipartisan Budget Act of 2018

1. References:

a. Bipartisan Budget Act of 2018 (Public Law 115-123), Division 8, Subdivision 1, Title IV (Enclosure 1).

b. Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended.

2. General.

a. This document provides implementation guidance for supplemental appropriations in the Investigations, Construction, Mississippi River and Tributaries (MR&T), Operation and Maintenance, and Expenses appropriations. Implementation guidance for the Flood Control and Coastal Emergencies appropriation is provided separately, dated 11 May 2018. It is my expressed intent that the USACE act as expeditiously as possible to initiate and complete the projects and studies identified in the Long-term Disaster Recovery Investment Plans (LDRIPs).

b. Funds appropriated in Public Law 115-123 are designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

c. In accordance with Public Law 115-123, my office will provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate reflecting the allocation and obligation of all funding provided by Public Law 115-123. In accordance with standard practice, your office will consolidate this monthly report with the monthly reports on other supplemental appropriations using data as of the end of each month and furnish each monthly report to my office for transmittal. In addition, your office will provide, at least quarterly, in-person execution updates to Office of the Assistant Secretary of the Army (Civil Works) (ASA (CW)) and Office of Management and Budget (OMB) leadership and will also provide similar relevant information to the appropriations committees.

d. In accordance with Section 20401 of Public Law 115-123, in Fiscal Year (FY) 2018, and each FY thereafter, the Chief of Engineers of the U.S. Army Corps of Engineers shall transmit to the Congress, after reasonable opportunity for comment, but

without change, by the Assistant Secretary of the Army for Civil Works, a monthly report, the first of which shall be transmitted to Congress not later than two days after the date of enactment of this subdivision and monthly thereafter, which includes detailed estimates of damages to each Corps of Engineers project, caused by natural disasters or otherwise. Please have your staff prepare the monthly reports based on data as of the end of each month and furnish the draft reports to my office for comment not later than the 7th day of each month.

3. Long-term Disaster Recovery Investment Plans.

a. Long-term Disaster Recovery Investment Plans (LDRIPs) have been approved for each of the following accounts for Public law 115-123: Investigations; Construction (other than the \$55,000,000 for short-term repairs); and Mississippi River and Tributaries (MR&T) work. The approved LDRIPs will be updated over time as additional information is developed on other studies and projects; however, it is not necessary to update LDRIPs for changes in the costs of already-included studies and projects. Coordination with this office and clearance by OMB (as conducted for the initially approved LDRIPs) are required for updates to the LDRIPs, and, while changes in costs for approved projects are not required to be coordinated or cleared, these changes will be provided to my office as they are identified. As was done for the initial LDRIPs, this office will continue to transmit updates to the LDRIPs to the Appropriations Committees of the House of Representatives and Senate as a courtesy. The approved LDRIPs, as well as updates to the LDRIPs, for each appropriation should be posted on the Corps web site, which is available to the general public. In addition, the Corps should consider the use of various authorities (such as WRRDA 2014, Section 1043) that encourage expanded non-Federal participation in studies and projects.

b. The LDRIP for Construction will include \$50,000,000 in reserve for the Continuing Authorities Program (CAP). This amount may be reduced in future updates to the plan as additional information is developed. Headquarters, U.S. Army Corps of Engineers (HQUSACE), will determine the allocation of CAP funding among CAP projects based on performance. Allocation of CAP funds should be reported to this office along with the monthly allocation and obligation report.

c. The Investment Plan for the \$400,000,000 amount for MR&T will follow the guidance on Investigations and Construction, except that for mega-projects such as Channel Improvement and Mississippi River Levees, useful increments of work instead of entire projects may be included for completion.

4. Investigations.

a. Public Law 115-123 appropriates \$135,000,000 in Investigations funds (Supplemental Investigations funds), to remain available until expended, for necessary expenses related to the completion, or initiation and completion, of authorized flood and storm damage reduction studies, including shore protection. It further provides that the funds are for high-priority studies of projects in States and insular areas (territories) with more than one flood-related major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in calendar years 2014, 2015, 2016, or 2017. Thirty-three states and three territories meet the criteria and are listed in Enclosure 2. Of that lump sum amount, not less than \$75,000,000 is available for studies in such States and insular areas (territories) that

were impacted by Hurricanes Harvey, Irma, and Maria (HHIM). The States and territories that were also impacted by HHIM are listed in Enclosure 3.

b. Studies must be Federally authorized in order to be eligible to be undertaken using Supplemental Investigations funds. Public Law 115-123 did not provide authority for the Corps of Engineers to undertake a study that is not otherwise authorized.

c. Feasibility studies that are predominantly for flood and storm damage reduction are eligible to be considered for Supplemental Investigations funds. In addition, comprehensive and watershed studies that are predominantly for flood and storm damage reduction, even if there are other ancillary purposes, are eligible for consideration. Both structural and non-structural measures will be considered. Studies may address long-range measures to reduce exposure to risks from floods and coastal storms. In addition, studies of projects located partially in a State identified in Enclosure 2 or 3, and primarily benefitting such State, are eligible to be considered for this funding.

d. In addition to comprehensive studies and watershed studies, feasibility studies (including General Reevaluation Studies) as well as work needed to reach a document supporting a construction decision and inclusion of the project in the Construction Investment Plan will be funded in Investigations. Types of studies are as follows:

(1) Study new starts, leading to preparation of a Chiefs Report or a Director's Report or a watershed assessment or a comprehensive report. New study starts are studies that have never been funded in the Investigations appropriation, including former Continuing Authorities Program projects migrating to the Investigations account for the first time.

(2) Active studies that are currently proceeding in accordance with a vertical *team* aligned scope, schedule and budget, and leading to preparation of a Chiefs Report for new authorization or a Director's Report, if additional authorization is not required.

(3) Study resumptions, leading to preparation of a Chiefs Report for new authorization or a Director's Report, if additional authorization is not required. Study resumptions are formerly Inactive studies that become Active once the Division Commander signs a memorandum reactivating the study.

(4) Public Law 115-123 provides that a project that is studied using Supplemental Investigations funds is eligible for implementation using Construction funds provided in that Act if the Secretary determines that the project is technically feasible, economically justified, and environmentally acceptable. For the Rio Grande de Loiza, Rio Guanajibo at Mayaguez, and Rio Nigua at Salina projects, Investigations funds will be provided to verify that the scope of each project as identified in its Chief Report is the project that is being proposed for implementation using Construction funds provided in Public Law 115-123. The verification and Chiefs Report for each project will be provided to the ASA(CW) for the required determination of technical feasibility, economic justification, and environmental acceptability, after which implementation of the project may be undertaken using Supplemental Construction funds.

e. Enclosure 4, dated July 5, 2018, identifies the studies that will be funded with Supplemental Investigations funds as part of the LDRIP. In accordance with paragraph 3, this list may be updated as necessary. Before Supplemental Investigations may be

used, any Federal funds previously provided for a study, including funds carried into FY 2018 as well as funds provided in the FY 2018 workplan, will be used first, with such funds remaining subject to cost sharing. In addition, for the Coastal Texas Protection and Restoration Study, the amount of Supplemental Investigations funds that will be made available for the study will be reduced by the amount provided in the FY 2019 President's Budget, with such amount subject to cost sharing. An interim accounting and cost share balancing will be undertaken to ensure that any regular funding, i.e., any funding other than Supplemental Investigations funds provided for the study, is appropriately cost shared.

f. Cost Sharing Agreement. No cost sharing agreement is required for the South Atlantic Coastal Comprehensive Study and the Houston Regional Watershed Assessment. For feasibility studies (including General Reevaluation Studies), a new feasibility cost sharing agreement (FCSA) or an amendment to the existing FCSA is required to address use of Supplemental Investigations funds at 100 percent federal expense.

(1) HQUSACE is authorized to develop and approve FCSAs, and amendments to existing FCSAs, for studies in the LDRIP and to delegate to the Division Commander authority to approve use of such FCSAs and amendments. In addition, authority to execute a FCSA or amendment, once approved, may be delegated to the District Commander.

(2) To ensure studies are being expedited, the FCSA or amendment to the FCSA, as applicable, should be executed as soon as possible. A significant delay in agreement execution may result in de-selection from the LDRIP.

g. Initial Funding of New Studies and Resumptions. To enable success for new and resuming studies approved for Supplemental Investigations funds, the Division Chief of Planning & Policy may approve the use of up to \$100,000 to establish the project delivery team, hold a scoping meeting, develop a draft Project Management Plan, and negotiate the FCSA or amendment. For resumptions, the \$100,000 includes any regular funding currently unobligated on the study, with the remainder, if any, being Supplemental Investigations funds. All Supplemental funding used on a study is included in the calculation of the total study cost.

h. Applicable Policies and Guidance. Except as otherwise noted, studies funded by Public Law 115-123 will be undertaken in accordance with existing Civil Works policies and guidance and incorporate SMART Planning principles. Consistent with current procedures, divisions will coordinate with HQUSACE to identify, document, and pursue opportunities to expedite completion of these studies and associated review and approval procedures in compliance with, but not limited to, Section 1001 of WRRDA 2014 and, for feasibility studies, the "3x3x3" rule and Section 1002 of WRRDA 2014.

i. Generally, feasibility studies funded by Public Law 115-123 will be conducted for not more than \$3 million and will be completed within 36 months, consistent with Section 1001 of WRRDA 2014. If a cost exemption is approved for a study, those additional costs may be funded from remaining Supplemental Investigations funds. However, if available remaining Supplemental Investigations funds are exhausted, then the additional costs will be cost shared and the Federal portion of those remaining costs

will compete for funding from annual Investigations funding. If additional cost sharing is required, the FCSA will need to be amended.

5. Construction.

a. Public Law 115-123 provides \$15,055,000,000 in Construction funding (Supplemental Construction funds) to address emergency situations at Corps of Engineers projects, and to construct, and to rehabilitate and repair damages caused by natural disasters to, Corps projects. Of that amount, \$15,000,000,000 is available to construct flood and storm damage reduction projects in States and insular areas (territories) with more than one flood-related major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in calendar years 2014, 2015, 2016, or 2017. Thirty-three states and three territories meet the criteria and are listed in Enclosure 2. Additionally, not less than \$10,425,000,000 of the \$15,000,000,000 is available for projects within such States and insular areas (territories) that were also impacted by HHIM. The States and territories that meet the criteria and also were also impacted by HHIM are listed in Enclosure 3. Further, Public Law 115-123 provides that all repair, rehabilitation, study, design, and construction of Corps of Engineers projects in Puerto Rico and the United States Virgin Islands (USVI), using the Supplemental Construction funds, shall be conducted at full federal expense.

b. Within the lump sum Construction appropriation, \$55,000,000 is available to repair to pre-storm condition Corps projects nation-wide that are under construction and that were damaged by natural disasters. This amount will be used only for damage repairs on projects not listed in the LDRIP for Construction (see paragraph 5.c.). Damage repairs include emergency dredging of shoaled material resulting from floods and storms. Projects receiving these repair funds are not limited to flood and coastal storm damage reduction projects. Funding will be distributed for the highest priority dredging and repairs based on risks and consequences. Repairs to damages not resulting from natural events are not eligible for this funding. Repairs funded from this amount in Puerto Rico and USVI will be undertaken at full federal expense. Other repairs funded from this amount will be cost shared normally. For projects included in LDRIP for Construction, repairs will be undertaken as part of construction of the project in accordance with paragraph 5.c., with cost sharing depending on whether construction of the project will be undertaken using Public Law 115-123 funds as "ongoing construction" or not "ongoing construction".

c. Long-term Flood and Storm Damage Reduction

(1) \$15,000,000,000 of the Construction funds is for flood and storm damage reduction projects, including shore protection projects, in the States and territories listed in Enclosure 2. Of that amount, not less than \$10,425,000,000 is for such projects in the HHIM-impacted States and territories listed in Enclosure 3. Only projects that are predominantly for flood and storm damage reduction are eligible for this funding; in addition, separable elements of such projects that are not for flood and storm damage reduction are not eligible for this funding.

(a) The flood and storm damage reduction projects eligible for the funding include: 1) currently authorized projects; 2) projects that are authorized in the future; 3) projects that have signed Chiefs Reports as of February 9, 2018, but have not yet been

authorized; and 4) projects that are not yet authorized, but that were studied using funds provided in Public Law 115-123 under the "Investigations" heading. For the last two categories of projects (not yet authorized projects), the ASA(CW) must also find that the project is technically feasible, economically justified, and environmentally acceptable. For this purpose, the Chiefs Report or the verification required under paragraph 4.d(4), will be submitted to this office to support such a determination. A project partially located in a State identified in Enclosure 2 or 3 and primarily benefitting that State is eligible to be considered for inclusion in the LDRIP for Construction.

(b) Enclosure 5, dated July 5, 2018, identifies the projects that will be funded with Supplemental Construction funds as part of the LORIP. In accordance with paragraph 3, this list may be updated as necessary. Before Supplemental Construction funds may be used, any Federal Construction funds previously provided for the project, including funds carried into FY 2018, as well as funds provided in the FY 2018 workplan, will be used first, with work funded with non-Supplemental Construction funds remaining subject to cost sharing. In addition, the amount of Supplemental Construction funds that will be made available for each of the following projects will be reduced by the amount provided in the FY 2019 President's Budget for that project, with such amount subject to cost sharing: Herbert Hoover Dike, FL; Buffalo Bayou and Tributaries, TX; Lewisville Dam, TX; Isabella Lake, CA; Santa Anna River Mainstem, CA; Yuba River Basin, CA; and Bluestone Lake, WV. In the case of construction being performed by a non-Federal sponsor under an executed reimbursement PPA, costs eligible for reimbursement using Supplemental Construction funds are those costs incurred after February 9, 2018, i.e., when the obligation takes place, such as the date of award of a construction contract.

(c) Any costs of a locally preferred plan that are in excess of the cost of the National Economic Development Plan for a project remain the responsibility of the non-Federal sponsor, which must pay such costs during construction of the project.

(2) The LDRIP for Construction for long-term flood and coastal storm damage reduction will fund projects of the following types, leading to completion of the projects:

(a) New construction starts, with a commitment to the completion of the projects. New construction starts are projects that have never been funded in the Construction appropriation. Documentation supporting a new start decision includes the Chiefs Report and the determination, if required, by the ASA(CW) that the project is technically feasible, economically justified, and environmentally acceptable. All work needed to complete that project, including engineering and design, will be funded in Construction.

(b) "Ongoing construction projects," with a commitment to the completion of the projects. An "ongoing construction project" includes all separable elements of that project.

(i) "Ongoing construction projects" include authorized Corps projects that have received Construction account appropriations (an initial work allowance from a Statement of Managers, work plan, or supplemental appropriation) in any of the previous three fiscal years (FY 2015, 2016, or 2017). A shore protection project that has received funding for initial construction, or for a cycle of periodic renourishment, in one of these fiscal years, is eligible for funding to complete that initial construction, or

that particular cycle of periodic renourishment, respectively, as an "ongoing construction project".

(ii) "Ongoing construction projects" also include authorized projects with an executed agreement providing for non-Federal sponsor construction, with potential reimbursement (such as section 211 for flood damage reduction or section 206 for shore protection), if the project was under construction during FY 2015, 2016, or 2017, even if no reimbursements have been provided previously for the project. It also includes a cycle of periodic renourishment to be completed prior to the end of calendar year 2020 for a project that is under construction by the non-federal sponsor during one of these fiscal years as eligible for reimbursement as an "ongoing construction project".

(iii) "Construction account appropriations for monitoring of the performance of renourishments do not count as appropriations for physical construction.

(iv) Of the projects listed in the LDRIP for Construction, Enclosure 5 identifies those projects that meet the requirements to be considered an "ongoing construction project". This list will be revised or updated as needed.

(c) Other projects that were funded in the Construction appropriation previously but that are not "ongoing construction projects," with a commitment to completion of the projects. If the latest economic update was not within five years, the district with responsibility should use available or reprogrammed funds to perform an economic update, then submit the project for consideration for Supplemental Construction funding. Existing policy on cost certification also should be followed.

(3) Cost Sharing and Real Estate Requirements - Ongoing Construction Projects, and Projects in Puerto Rico and USVI. Public Law 115-123 provides that the completion of "ongoing construction projects" and all repair, rehabilitation, study, design, and construction of Corps of Engineers projects in Puerto Rico and USVI, using Construction funding provided in Public Law 115-123, shall be conducted at full Federal expense.

(a) The non-Federal sponsors remain responsible for the provision of lands, easements, and rights-of-way (LER). Subject to the availability of Public Law 115-123 funds and the following conditions, the value of LER acquired by the non-Federal sponsors for work that will be performed at full Federal expense will be eligible for reimbursement by the Government. For a project with an existing Project Partnership Agreement (PPA), the Corps will reimburse non-Federal sponsors for the value of LER acquired from private owners after the date of execution of an amendment to the PPA providing for completion of construction at full Federal expense. For a project for which no PPA has been executed, the Corps will reimburse non-federal sponsors for the value of required LER acquired from private owners after the date of execution of the PPA.

(b) As discussed in paragraph 5c3(a), the non-Federal sponsors remain responsible for the provision of LER. If any acquisition assistance is requested by the non-Federal sponsor, the District will promptly notify HQUSACE (including the RIT and CEMP-CR) of the request. Acceptance of requests will be at the sole discretion of the Corps and reviewed and processed in accordance with the procedure outlined in ER 405-1-12, para., 12-34. A non-Federal sponsor must formally request assistance in writing no later than 30 calendar days after the Corps provides the non-Federal sponsor with

written descriptions of the real property interests required for a project. Under no circumstances will the Corps agree to acquire any real property interest on behalf of a non-Federal sponsor if the non-Federal sponsor has initiated negotiations with the owner of the real property interest.

(c) Among other requirements of Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4630 and 4655), non-Federal sponsors must observe the land acquisition policies in Section 4651 of Title 42 of the U.S. Code when acquiring real property interests. These policies include, but are not limited to, appraising real property interests before initiating negotiations with landowners, offering an amount no less than the appraised value as just compensation, not requiring landowners to surrender possession of real property interests before paying the agreed upon purchase price or depositing with the court an amount not less than the approved appraised value, not taking any coercive actions to compel an agreement on the price to be paid for real property interests, and instituting formal condemnation proceedings in the event real property interests are to be acquired by exercise of the power of eminent domain.

(4) Cost Sharing and Real Estate Requirements - Projects Outside of Puerto Rico and USVI That Are Not "Ongoing Construction Projects," including new starts and projects that had previously received Construction funds but did not receive Federal funds in FY 2015, 2016, or 2017.

(a) For projects that are neither "ongoing construction projects" nor located in Puerto Rico or the USVI, non-cost sharing applies, except that the non-Federal sponsor may, but is not required to, finance its cash contribution, including the 5 percent cash contribution for flood damage reduction projects, for costs funded by Public Law 115-123 for up to 30 years after completion of the project in accordance with Section 103(k) of WRDA 1986. The financing provisions apply only to the work that is undertaken with Supplemental Construction funds, and do not apply, for instance, to future periodic renewals that are not funded with these funds.

(b) For such projects, the non-Federal sponsors remain responsible for the provision of LER and utility/facility relocations. The value of the LER acquired from private owners after the date of PPA execution and utility/facility relocations provided by the non-Federal sponsor will be credited towards the non-Federal share of project costs in accordance with the terms of the PPA.

(c) As discussed in paragraph 5c4(b), the non-Federal sponsors remain responsible for the provision of LER and performance of utility/facility relocations. If any acquisition assistance is requested by the non-Federal sponsor, the District will promptly notify HQUSACE (including the RIT and CEMP-CR) of the request. Acceptance of requests will be at the sole discretion of the Corps and reviewed and processed in accordance with the procedure outlined in ER 405-1-12, para., 12-34. A non-Federal sponsor must formally request assistance in writing no later than 30 calendar days after the Corps provides the non-Federal sponsor with written descriptions of the real property interests required for a project. Under no circumstances will the Corps agree to acquire any real property interest on behalf of a non-Federal sponsor if the non-Federal sponsor has initiated negotiations with the owner of the real property interest.

(d) Among other requirements of Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4630 and 4655), non-federal sponsors must observe the land acquisition policies in Section 4651 of Title 42 of the U.S. Code when acquiring real property interests. These policies include, but are not limited to, appraising real property interests before initiating negotiations with landowners, offering an amount no less than the appraised value as just compensation, not requiring landowners to surrender possession of real property interests before paying the agreed upon purchase price or depositing with the court an amount not less than the approved appraised value, not taking any coercive actions to compel an agreement on the price to be paid for real property interests, and instituting formal condemnation proceedings in the event real property interests are to be acquired by exercise of the power of eminent domain.

(5) The non-Federal sponsor is responsible for the costs of cleanup and response to hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601-9675), that exist in, on, or under any of the real property interests required for construction, operation, maintenance, repair, replacement, and rehabilitation of a project. Such costs shall be paid solely by the non-Federal sponsor without reimbursement or credit by the Government.

(6) Public Law 115-123 did not change the responsibilities for operation, maintenance, repair, replacement, and rehabilitation (**OMRR&R**). Non-Federal sponsors remain responsible for all costs of **OMRR&R**.

(7) The provisions of section 902 of the Water Resources Development Act of 1986 do not apply to the Public Law 115-123 funding, and therefore: these funds are not included in calculating the total project cost to be compared to the section 902 limit for a project.

(8) Project Partnership Agreements and Amendments.

(a) No separate design agreement is required for projects included in the approved LDRIP for Construction. Once a project is included in the approved Construction Investment Plan, except as provided in paragraph 5.c.(1)(b) regarding use of previously provided Federal funds, Supplemental Construction funding may be used, at full Federal financing, for engineering and design, as well as for negotiation and processing of the PPA or PPA amendment, as applicable. However, the PPA or PPA amendment should be executed as soon as possible and in all cases must be executed prior to solicitation of the first construction contract using Public Law 115-123 Construction funds. All costs funded with Supplemental Construction funds will be included in total project costs and cost shared and / or financed in accordance with the applicable PPA or PPA amendment.

(b) For a project or separable element with an existing PPA, an interim accounting and cost share balancing will be undertaken to ensure that any regular funding, i.e., any funding other than Supplemental Construction funding provided for the project, is appropriately cost shared.

(c) HQUSACE will work with my office to develop basic model PPAs and PPA

Amendments. Once these basic models are approved, HQUSACE may approve non-substantial variations to such models based on experience as well as specific requirements associated with projects. In addition, HQUSACE may delegate to the Division Commander authority to approve use of a model PPA or PPA amendment, or a PPA or PPA Amendment with variations approved by HQUSACE. In addition, authority to execute a PPA or PPA amendment, once approved, may be delegated to the District Commander.

(9) Separate guidance will be developed to address a non-Federal sponsor request for Supplemental Construction funds to implement a project utilizing Section 1043 of the Water Resources Development Act of 2014.

(10) Continuing Authorities Program (CAP) Projects. Up to \$50,000,000 of the \$15,000,000,000 in Construction funds is available for Continuing Authority Program (CAP) projects for flood and storm damage reduction. Consistent with delegation of the CAP, HQUSACE is authorized to determine which CAP projects will be funded by Public Law 115-123 in accordance with the following guidance.

(a) In general, an individual CAP project will be considered for completion as an "ongoing construction project" at full federal expense if the project received funding in FY 2015, 2016, or 2017 for the Design and Implementation (D&I) phase. In addition, study, design and construction of CAP projects in Puerto Rico and USVI using Public Law 115-123 funds will be undertaken at full Federal expense. For CAP projects in the Feasibility phase and CAP projects in the D&I phase that are neither "ongoing construction projects" nor located in Puerto Rico or USVI, the non-federal cash contribution may be financed in accordance with Section 103(k) of WRDA 1986.

(b) Public Law 115-123 funding is included in calculating the Federal per-project limit for a project. Public Law 115-123 did not modify or waive the Federal per-project limits. D&I agreements will include the normal requirement that the non-Federal sponsor is responsible for any costs over the Federal per-project limit.

(c) For a discussion of converting a CAP project to an Investigations study, see paragraph 4.d.1.

6. Mississippi River and Tributaries.

a. Public Law 115-123 provided \$770,000,000 to address emergency situations at Corps of Engineers projects, and to construct, and rehabilitate and repair damages to Corps of Engineers projects, caused by natural disasters. Normal cost sharing, if any, and non-federal sponsor responsibilities apply.

b. \$400,000,000 is available to construct flood and storm damage reduction projects that were authorized as of the date of enactment of Public Law 115-123, and such projects that are authorized subsequently, once authorized. This funding may be used for feasibility studies leading to authorization and a construction decision, in which case Investigations guidance in paragraph 3 will be followed, as well as for engineering and design and construction, including rehabilitation costs normally funded from the Construction subdivision of the appropriation, in which case the Construction guidance in paragraph 4 will be followed. Channel improvement revetments and Mississippi River

levee construction was cleared on July 5, 2018 for multiple authorized states.

c. \$370,000,000 is available to address emergency situations at Corps of Engineers projects, and to construct, and rehabilitate and repair damages to Corps of Engineers projects, caused by natural disasters. Based on estimates provided to Appropriations Subcommittee staff, this amount is intended to be used for damage repairs only, including emergency dredging of shoaled material resulting from floods and storms. Funding will be distributed for the highest priority dredging and repairs based on risks and consequences. Dredging and repairs to damages not caused by natural events are not eligible for this funding.

7. Operation and Maintenance.

a. \$608,000,000 is provided to dredge Federal navigation projects in response to, and repair damages to Corps of Engineers federal projects caused by, natural disasters. Dredging and repairs to damages not caused by natural events are not eligible for this funding. Funding will be distributed for the highest priority dredging and repairs based on risks and consequences.

b. This appropriation provides that such sums as are necessary to cover the Federal share of eligible operation and maintenance costs for coastal harbors and channels, and for inland harbors shall be derived from the Harbor Maintenance Trust Fund (HMTF). Care should be taken that the proper accounting codes are used to identify funding for costs eligible to be derived from the HMTF.

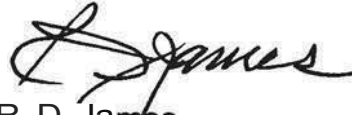
8. Expenses. \$20,000,000 is provided to administer and oversee the obligation and expenditure of amounts provided in Public Law 115-123 for the Corps of Engineers. HQUSACE will distribute the funding based on Public Law 115-123 workload.

8. Funding of Studies and Projects.

a. Although the LDRIP reflects a commitment to complete all work leading to a construction decision and the LDRIP for Construction reflects a commitment to complete construction projects, funding will be provided to approved projects in increments based on need. This will help to avoid reprogramming difficulties in the event of cost savings, changes in non-Federal participation, or termination of project studies found to be no longer justified. Funding for CAP projects will also be incremental.

b. Repair and emergency dredging work funded in the Construction, Operation and Maintenance, and MR&T appropriations will be funded in increments, for instance, once for plans and specifications and once for the contract. This will help to avoid reprogramming difficulties in the event of cost savings or if higher priority repair and dredging work arises.

c. Expenses funding will be distributed based on the underlying Public Law 115-123 workload.

A handwritten signature in black ink, appearing to read "R. D. James". The signature is fluid and cursive, with the first letter "R" being particularly large and stylized.

R. D. James
Assist Secretary of the Army
(Civil Works)

Ends

TITLE IV

CORPS OF ENGINEERS--CIVIL

DEPARTMENT OF THE ARMY

Investigations

For an additional amount for "Investigations" for necessary expenses related to the completion, or initiation and completion, of flood and storm damage reduction, including shore protection, studies which are currently authorized or which are authorized after the date of enactment of this subdivision, to reduce risk from future floods and hurricanes, at full Federal expense, \$135,000,000, to remain available until expended: Provided, That of such amount, not less than \$75,000,000 is available for such studies in States and insular areas that were impacted by Hurricanes Harvey, Irma, and Maria: Provided further, That funds made available under this heading shall be for high-priority studies of projects in States and insular areas with more than one flood-related major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in calendar years 2014, 2015, 2016, or 2017: Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, including new studies selected to be initiated using funds provided under this heading, beginning not later than 60 days after the enactment of this subdivision.

Construction

For an additional amount for "Construction" for necessary expenses to address emergency situations at Corps of Engineers projects, and to construct, and rehabilitate and repair damages caused by natural disasters, to Corps of Engineers projects, \$15,055,000,000, to remain available until expended: Provided, That of such amount, \$15,000,000,000 is available to construct flood and storm damage reduction, including shore protection, projects which are currently authorized or which are authorized after the date of enactment of this subdivision, and flood and storm damage reduction, including shore protection, projects which have signed Chiefs Reports as of the date of enactment of this subdivision or which are studied using funds provided under the heading "Investigations" if the Secretary determines such projects to be technically feasible, economically justified, and environmentally acceptable, in States and insular

areas with more than one flood-related major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121et seq.) in calendar years 2014, 2015, 2016, or 2017: Provided further, That of the amounts in the preceding proviso, not less than \$10,425,000,000 shall be available for such projects within States and insular areas that were impacted by Hurricanes Harvey, Irma, and Maria: Provided further, That all repair, rehabilitation, study, design, and construction of Corps of Engineers projects in Puerto Rico and the United States Virgin Islands, using funds provided under this heading, shall be conducted at full Federal expense: Provided further, That for projects receiving funding under this heading, the provisions of section 902 of the Water Resources Development Act of 1986 shall not apply to these funds: Provided further, That the completion of ongoing construction projects receiving funds provided under this heading shall be at full Federal expense with respect to such funds: Provided further, That using funds provided under this heading, the non-Federal cash contribution for projects eligible for funding pursuant to the first proviso shall be financed in accordance with the provisions of section 103{k} of Public Law 99-662 over a period of 30 years from the date of completion of the project or separable element: Provided further, That up to \$50,000,000 of the funds made available under this heading shall be used for continuing authorities projects to reduce the risk of flooding and storm damage: Provided further, That any projects using funds appropriated under this heading shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary requiring, where applicable, the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after the enactment of this subdivision.

Mississippi River and Tributaries

For an additional amount for "Mississippi River and Tributaries" for necessary expenses to address emergency situations at Corps of Engineers projects, and to construct, and rehabilitate and repair damages to Corps of Engineers projects, caused by natural disasters, \$770,000,000, to remain available until expended: Provided, That of such amount, \$400,000,000 is available to construct flood and storm damage reduction projects which are currently authorized or which are authorized after the date of enactment of this subdivision: Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after the enactment of this subdivision.

Operation and Maintenance

For an additional amount for "Operation and Maintenance" for necessary expenses to dredge Federal navigation projects in response to, and repair damages to Corps of Engineers Federal projects caused by, natural disasters, \$608,000,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of eligible operation and maintenance costs for coastal harbors and channels, and for inland harbors shall be derived from the Harbor Maintenance Trust Fund: Provided, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after the enactment of this subdivision.

Flood Control and Coastal Emergencies

For an additional amount for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701), for necessary expenses to prepare for flood, hurricane and other natural disasters and support emergency operations, repairs, and other activities in response to such disasters, as authorized by law, \$810,000,000, to remain available until expended: Provided, That funding utilized for authorized shore protection projects shall restore such projects to the full project profile at full Federal expense: Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after the enactment of this subdivision.

Expenses

For an additional amount for "Expenses" for necessary expenses to administer and oversee the obligation and expenditure of amounts provided in this title for the Corps of Engineers, \$20,000,000, to remain available until expended: Provided, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this subdivision.

GENERAL PROVISIONS--THIS TITLE

Sec. 20401. In fiscal year 2018, and each fiscal year thereafter, the Chief of Engineers of the U.S. Army Corps of Engineers shall transmit to the Congress, after reasonable opportunity for comment, but without change, by the Assistant Secretary of the Army for Civil Works, a monthly report, the first of which shall be transmitted to Congress not later than 2 days after the date of enactment of this subdivision and monthly thereafter,

which includes detailed estimates of damages to each Corps of Engineers project, caused by natural disasters or otherwise.

Sec. 20402. From the unobligated balances of amounts made available to the U.S. Army Corps of Engineers, \$518,900,000 under the heading "Corps of Engineers--Civil, Flood Control and Coastal Emergencies" and \$210,000,000 under the heading "Corps of Engineers--Civil, Operations and Maintenance" in title X of the Disaster Relief Appropriations Act, 2013 (Public Law 113-2; 127 Stat. 25) shall be transferred to "Corps of Engineers--Civil, Construction", to remain available until expended, to rehabilitate, repair and construct Corps of Engineers projects: Provided, That those projects may only include construction expenses, including cost sharing, as described under the heading "Corps of Engineers--Civil, Construction" in title X of that Act or other construction expenses related to the consequences of Hurricane Sandy: Provided further, That amounts transferred pursuant to this section that were previously designated by the Congress as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after the enactment of this subdivision.

States and Territories with More than One Flood-Related Major Disaster Declaration in
Calendar Years 2014, 2015, 2016, or 2017

Alabama
Alaska
Arkansas
California
Florida
Georgia
Guam
Hawaii
Idaho
Iowa
Kansas
Kentucky
Louisiana
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
New Mexico
Nevada
New York
North Dakota
Oklahoma
Oregon
Puerto Rico
South Carolina
South Dakota
Tennessee
Texas
U.S. Virgin Islands
Vermont
Washington
Wisconsin
West Virginia
Wyoming

States and Territories with More than One Flood-Related Major Disaster Declaration in
Calendar Years 2014, 2015, 2016, or 2017 That Were Impacted by Hurricanes Harvey,
Irma, and Maria

Florida
Georgia
Louisiana
Puerto Rico
South Carolina
Texas
U.S. Virgin Islands

Bipartisan Budget Act of 2018 (Public Law 115-123)	
Long Term Disaster Recovery Investment Plan	
Investigations Account	
As of July 5, 2018	
STUDY NAME	STATE
Selma, AL	AL
Valley Creek, AL	AL
LA County Flood Control System, CA	CA
Westminster (East Garden Grove) Watershed, CA	CA
Collier County Beach Erosion Control, FL	FL
Dade County, FL	FL
Miami Back Bay, FL	FL
Monroe County, FL	FL
Okaloosa County, FL	FL
Pinellas County, FL	FL
South Atlantic Coastal Study, FL, PR & USVI	FL, PR, USVI
Proctor, Fulton County, GA	GA
Metro Louisville Flood Protection System, KY	KY
Amite River & Tributaries East of the Mississippi River, LA	LA
Lake Pontchartrain and Vicinity, LA {General Reevaluation Report}	LA
South Central Coast, LA	LA
Upper Barataria Basin, LA	LA
West Bank and Vicinity, New Orleans, LA (General Reevaluation Report)	LA
Nassau County Back Bays, NY	NY
Tulsa West Tulsa Levees, OK	OK
Portland Metro Levee System, OR	OR
Puerto Rico Study, PR	PR
Rio Culebrinas, PR	PR
Rio Grande de Manati, PR (Ciales)	PR
Rio Guavanilla, PR	PR
San Juan Metro Area Study, PR	PR
Charleston Peninsula, SC	SC
Folly Beach, SC	SC
Memphis Wolf River Backwater Levee System, TN	TN
Brazos River, Fort Bend County, TX	TX
Buffalo Bayou and Tributaries Resiliency Study, TX	TX
Coastal Texas Protection and Restoration Study, TX	TX
Houston Regional Watershed Assessment, TX	TX
Guadalupe and San Antonio River Basins, TX	TX
Savan Gut Phase 11, St. Thomas, USVI	USVI
Turpentine Run, St. Thomas, USVI	USVI
Upper Connecticut River, VT	VT
Mill Creek, Walla Walla County, WA	WA



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

SACW

4 November 2022

MEMORANDUM FOR COMMANDING GENERAL, U.S. ARMY CORPS OF
ENGINEERS

SUBJECT: Amite River and Tributaries East of the Mississippi River, Louisiana
Feasibility Study, 3x3x3 Rule Exemption

1. Reference HQ, USACE, CECW-MVD memorandum (3x3x3 Exception Request for the Amite River and Tributaries East of the Mississippi Feasibility Study, Louisiana), 28 July 2022.
2. I am responding to the memorandum request for an exemption to the requirement identified in Section 1001(a) of the Water Resources Reform and Development Act of 2014 that feasibility reports are, to the extent practicable, to be completed in three years and have a maximum Federal cost of \$3 million.
3. My staff has reviewed the request with background information and determined that an additional twenty months to complete the study is warranted. As the feasibility study is currently at full Federal expense, the justification in the referenced documentation supports the request for an additional \$1.91 million in Federal funding. I hereby grant an exemption to increase the total study time for the Amite River and Tributaries East of the Mississippi River, Louisiana Feasibility Study by 20 months at a total Federal cost of \$4.91 million. The feasibility study shall be completed within twenty months of the date of this memorandum.
4. I request your diligent attention on actively managing the study cost and schedule. If there are any questions, please contact Mr. Mark Kramer, Project Planning and Review at (202) 761-0038.

A handwritten signature in black ink, appearing to read "Michael L. Connor".

MICHAEL L. CONNOR
Assistant Secretary of the Army
(Civil Works)

CF:
DCG-CEO, USACE
DCW, USACE
CECW-MVD