

§ 203.82 Requirements of local cooperation.

It is the Corp's policy that authorization of a project will, insofar as feasible, require local interests to furnish items of local cooperation similar to those set forth for flood control project construction in section 3 of the 1936 Flood Control Act Pub. L. 74-738 (33 U.S.C. 701c). These requirements are that local interests (a) provide without cost to the United States all lands, easements, and rights-of-way necessary for the authorized work; (b) hold and save the United States free from damages due to the authorized work, exclusive of damages due to the fault or negligence of the United States or its contractor; (c) maintain and operate, in a manner satisfactory to the Chief of Engineers, all the works after completion. When assistance includes the construction of temporary protective works, the maintain and operate clause is modified by adding (or substituting, as applicable) the requirement for local interests to remove any temporary works constructed by the Corps under Pub. L. 84-99.

(a) *Furnishing of lands, easements, and rights-of-way.* This item provides for sites of structures, for borrow and disposal areas, and for access; also, for all other rights in, upon, through or over private property as needed by the United States in connection with the authorized work. Performance by the local interests under their assurance to furnish lands, easements, and rights-of-way will normally not be considered a contribution. If more advantageous to the Federal Government, borrow and disposal areas may be assumed as a Federal responsibility. Easements must be provided for future Federal inspection of maintenance or removal. If a public agency sponsors a project for a non-public applicant, the applicant must provide an easement to the sponsor for future maintenance or removal, as well as for Federal inspection. Easement should extend to the life of the project.

(b) *Hold and save clause.* Where the property concerned is under tenancy, both the property owner and the tenant should sign the local cooperation agreement.

(c) *Maintain and operate clause.* This clause must include: "It is understood that the foregoing maintenance and operation requirement extends to inter-related features of all protective work under the control of (insert name of owner or sponsor)."

(d) *Removal of temporary works.* Local interests are responsible for the removal of all temporary works constructed by the Corps, which are unsuitable for upgrade to permanent structures. Structures may be deemed unsuitable due to inherent health, access, or safety problems which could result from their location. The wording of this clause must not preclude the use of other Federal assistance programs to fund removal.

(e) *Request for retention of temporary works.* Local interests may ask to retain a temporary structure for protection from future floods. This *cannot* be authorized unless the works are upgraded to meet all Corps criteria for permanent projects. Pub. L. 84-99 funds cannot be used to upgrade the structure. An upgraded project would have to fully comply with permits, environmental, and other regulatory and legal requirements. Unless upgraded, such projects are not eligible for rehabilitation, and must be removed in accordance with paragraph (d) of this section. Local interests must initiate action to upgrade or remove the temporary works within 30 days after the flood threat has passed.

(f) *Cost sharing.* The Federal government may bear up to 80 percent of the construction costs for rehabilitation of non-Federal projects. Sponsors may provide their share of construction costs in the form of cash, in-kind services such as labor or equipment, etc., or a combination of cash and in-kind services. The sponsor's share is in addition to providing real estate interests needed for construction and inspection and any deferred maintenance costs. The Corps will determine the dollar value of any in-kind services being provided by the sponsor.

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