

§ 385.23

shall enter into a separate Memorandum of Agreement that will specify how the Federal agencies will pay the Federal share of these costs. The State's fifty percent share shall be accounted for in the design agreement between the Corps of Engineers and the South Florida Water Management District.

(9) The panel shall produce a biennial report to Congress, the Secretary of the Army, the Secretary of the Interior, and the Governor, pursuant to section 601(j) of WRDA 2000, that includes an assessment of ecological indicators and other measures of progress in restoring the ecology of the natural system, based on the Plan.

(10) The Corps of Engineers and the South Florida Water Management District and other non-Federal sponsors shall cooperate with the independent scientific review panel, including responding to reasonable requests for information concerning the implementation of the Plan.

(11) The Secretary of the Army, the Secretary of the Interior, and the Governor shall consult with the South Florida Ecosystem Restoration Task Force in their decision to exercise each five-year option to extend the agreement with the National Academy of Sciences. Upon expiration of the agreement, the Secretary of the Army, the Secretary of the Interior, and the Governor shall consult the South Florida Ecosystem Restoration Task Force in selection of another body to convene the independent scientific review panel required by section 601(j) of WRDA 2000.

(b) *External peer review.* (1) The Department of the Army, the Department of the Interior, the South Florida Water Management District, and other Federal, State, and local agencies, the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida may initiate an external peer review process to review documents, reports, procedures, or to address specific scientific or technical questions or issues relating to their jurisdiction.

(2) In accordance with §385.12(d), draft Pilot Project Technical Reports shall be externally peer reviewed.

(3) In accordance with §385.31(b), draft assessment reports prepared for

33 CFR Ch. II (7-1-06 Edition)

the adaptive management program shall be externally peer reviewed.

§ 385.23 Dispute resolution.

(a) Disputes with the non-Federal sponsor concerning a Project Cooperation Agreement shall be resolved under the specific dispute resolution procedures of that Project Cooperation Agreement.

(b) Disputes with the non-Federal sponsor concerning design activities shall be resolved under the specific dispute resolution procedures of the design agreement.

(c) All other unresolved issues with the non-Federal sponsor and disputes with the State associated with the implementation of the Plan shall be resolved according to the terms of the Dispute Resolution Agreement executed on September 9, 2002 pursuant to section 601(i) of WRDA 2000.

(d) For disputes with parties not covered by the provisions of paragraphs (a), (b), or (c) of this section, the Corps of Engineers shall attempt to resolve the dispute in accordance with applicable statutory requirements and/or the following procedures:

(1) The parties will attempt to resolve disputes at the lowest organizational level before seeking to elevate a dispute.

(2) Any disputed matter shall first be elevated to the District Engineer and the equivalent official of the other agency, or their designees. The parties may decide to continue to elevate the dispute to higher levels within each agency.

(3) The parties to a dispute may agree to participate in mediation.

(4) When a dispute is resolved the parties shall memorialize the resolution in writing.

§ 385.24 Project Management Plans.

(a) *General requirements.* (1) The Corps of Engineers and the non-Federal sponsor shall, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, develop a Project Management

Plan prior to initiating activities on a project.

(2) The Project Management Plan shall define the activities, and where appropriate, the subordinate tasks, as well as the assignment of responsibility for completing products and activities such as Project Implementation Reports, Pilot Project Design Reports, plans and specifications, real estate acquisition, construction contracts and construction, Comprehensive Plan Modification Reports, and other activities necessary to support implementation of the Plan.

(3) The Project Management Plan shall include a quality control plan, as described in § 385.21.

(4) As appropriate, the Project Management Plan shall include activities to be conducted to meet the requirements of the Fish and Wildlife Coordination Act, as described in § 385.26(e).

(5) The Project Management Plan shall provide schedule and funding information for the project.

(6) In accordance with § 385.18, Corps of Engineers and the non-Federal sponsor shall provide opportunities for the public to review and comment on the Project Management Plan.

(b) *Revisions to Project Management Plans.* The Corps of Engineers and the non-Federal sponsor may, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, revise the Project Management Plan whenever necessary, including after completion of the Project Implementation Report, or Plans and Specifications. In accordance with § 385.18, the Corps of Engineers and the non-Federal sponsor shall provide opportunities for the public to review and comment on revisions to the Project Management Plan.

§ 385.25 Program Management Plans.

(a) *General requirements.* (1) The Corps of Engineers and the non-Federal sponsor shall, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe

of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, develop a Program Management Plan prior to initiating a program-level activity.

(2) The Program Management Plan shall define the activities, and where appropriate, the subordinate tasks, as well as the assignment of responsibility for completing products developed in support to program-level activities.

(3) In accordance with § 385.18, Corps of Engineers and the non-Federal sponsor shall provide opportunities for the public to review and comment on the Program Management Plan.

(b) *Revisions to Program Management Plans.* The Corps of Engineers and the non-Federal sponsor may, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, revise the Program Management Plan whenever necessary to incorporate new or changed information that affects the scope, schedule, or budget of the activities described in the Program Management Plan. In accordance with § 385.18, the Corps of Engineers and the non-Federal sponsor shall provide opportunities for the public to review and comment on revisions to the Program Management Plan.

§ 385.26 Project Implementation Reports.

(a) *General requirements.* (1) The Project Implementation Report is a document that provides information on plan formulation and evaluation, engineering and design, estimated benefits and costs, environmental effects, and the additional information and analysis necessary for the Secretary of the Army to approve the project for implementation, or for Congress to authorize the project for implementation. The Project Implementation Report bridges the gap between the conceptual level of