



DEPARTMENT OF THE ARMY

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

REPLY TO
ATTENTION OF:

CECW-P/CECW-E

AUG 15 2006

MEMORANDUM FOR ALL MAJOR SUBORDINATE COMMANDS

SUBJECT: Authority and Funding Guidance for USACE Levee Certification Activities

1. Reference:

a. CECW-P/CECW-E Memorandum, "Guidance on Levee Certification for the National Flood Insurance Program – FEMA Map Modernization Program Issues," June 23, 2006.

b. Engineer Regulation (ER) 1105-2-100, "Planning Guidance Notebook," Appendix G, Section V, June 30, 2004.

c. 44 Code of Federal Regulations (CFR) 65.10, Mapping of Areas Protected by Levee Systems, October 1, 2002.

d. Engineer Regulation (ER) 500-1-1, "Emergency Employment of Army and Other Resources – Civil Emergency Management Program," September 30, 2001.

e. Engineer Regulation (ER) 1140-1-211, "Support for Others: Reimbursable Work," paragraph 10(b), June 22, 1992.

f. Engineer Regulation (ER) 1165-2-119, "Modifications to Completed Projects," September 20, 1982.

g. Engineer Regulation (ER) 11-2-220, "Civil Works Activities, General Investigation," July 29, 1977.

h. Title 10 US Code (USC) 3036, "Chiefs of branches: appointment; duties," paragraph (d).

In accordance with 44 CFR 65.10 (a), it is the responsibility of the community or other parties seeking recognition of a levee system for purposes of the National Flood Insurance Program (NFIP) to provide the data outlined in 44 CFR 65.10. Should these parties seek US Army Corps of Engineers (USACE) participation, this guidance outlines the current USACE authorities and potential funding sources for USACE participation in performing levee certification determinations for the NFIP. This guidance supplements the above Reference (a). Table 1, attached, summarizes the information below.

2. Authority.

a. USACE may perform levee certification determinations on USACE owned, operated, and maintained levees as part of its operation and maintenance program for those projects.

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b. At the request of a non-Federal sponsor, USACE may perform levee certification determinations for the levee systems that are inspected under the Inspection of Completed Works (ICW) Program.

c. For levees not constructed by USACE which are active in the Flood Control and Coastal Emergency's Rehabilitation & Inspection Program (RIP), USACE may perform levee certification determinations for those projects only at the request of another Federal agency under the Economy Act.

d. USACE may perform levee certification determinations for levees constructed by another Federal agency at the request of that agency under the Economy Act.

e. USACE may not perform levee certification determinations on levees constructed by a non-Federal entity that are not active in the RIP, except as noted in paragraph 5.

f. For levees described above in paragraphs 2(b)-2(d), if reasonable and expeditious USACE may provide support for or perform levee certification determinations consistent with 10 USC 3036(d) and ER 1140-1-211, paragraph 10(b).

g. This guidance does not preclude the ability for communities or parties to use non USACE entities to perform the levee certification determination for levees described above in paragraphs 2(b)-2(e).

3. Funding.

a. For USACE owned, operated, and maintained levees, USACE may perform levee certification determinations using part of its operation and maintenance funds for those projects subject to the availability of funds for that purpose and consistent with the statutory reprogramming rules.

b. For USACE designed and constructed levees or levees that have been authorized to be incorporated into a USACE Federal system and that are being operated and maintained by a non-Federal sponsor, USACE may perform levee certification determinations using ICW program funds, subject to the availability of funds for that purpose and consistent with the statutory reprogramming rules.

c. For non-Federal levees active in USACE's RIP, USACE may perform levee certification determinations as requested by another Federal agency through the Economy Act and funding must be provided by the requesting agency.

d. For other Federal agency levees, USACE may perform levee certification determinations as requested by another Federal agency through the Economy Act and funding must be provided by the requesting agency.

e. For levees that have recently undergone USACE studies/design or are being considered in an active study/design phase, USACE may perform activities, such as documentation and data preparation, that would help facilitate the levee certification determination after construction

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using project funds. The cost for these activities will be cost shared in accordance with the feasibility or design agreement. This partner expectation should be identified early in the planning or design phases and is subject to availability of project funds.

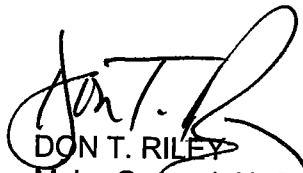
f. For levees described above in paragraphs 3(b)-3(e), if reasonable and expeditious, USACE may provide support for or perform levee certification determinations on a reimbursable basis consistent with 10 USC 3036(d) and ER 1140-1-211, paragraph 10(b).

4. Certification determinations may not be performed under the Floodplain Management Services (FPMS) Program. FPMS funds may, however, be used to provide support for analyses needed for levee certification determinations by others. Voluntary contributions may be accepted from State and local governments for the purpose of expanding the scope of the services requested in accordance with ER 1105-2-100, Appendix G, Section V.

5. If a district office is considering a cost shared study, such as a Section 216, Review of Completed Projects (ER 1165-2-119), General Investigation (ER 11-2-220), or General Reevaluation Report (ER 1105-2-100), for a project area containing an existing levee, the study may include analyses needed for levee certification determination. A district office should not conduct a Section 216 study for the exclusive purpose of performing a levee certification determination.

6. Points of contact for this guidance are Ms. Tammy Conforti, CEIWR-GR, telephone (530) 756-1104, Mr. Steve Durrett, CECW-CE, telephone (202) 761-5346, or CECC- Division Counsels.

FOR THE COMMANDER:


DON T. RILEY
Major General, U. S. Army
Director of Civil Works

**Table 1: AUTHORITY AND FUNDING GUIDANCE SUMMARY FOR
USACE LEVEE CERTIFICATION DETERMINATIONS**

Levee System Type	Authorities	Potential Funding Sources
USACE owned, operated, and maintained	Project operation and maintenance program	Project appropriated funds
ICW Program <ul style="list-style-type: none"> • USACE constructed • Non-USACE constructed, but incorporated into Federal system 	ICW program responsibilities or Economy Act or Support for Others, 10 USC 3036(d)	ICW or reimbursed through Economy Act interagency agreement or reimbursed in accordance to 10 USC 3036(d)
Non-USACE constructed in RIP	Economy Act or Support for Others, 10 USC 3036(d)	reimbursed through Economy Act interagency agreement or reimbursed in accordance to 10 USC 3036(d)
Other Federal agency	Economy Act or Support for Others, 10 USC 3036(d)	reimbursed through Economy Act interagency agreement or reimbursed in accordance to 10 USC 3036(d)
Non-Federal (private, state, or local) and not in RIP	Part of a cost shared project	Project appropriated funds