28 December 1992
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CECW-BE

MEMORANDUM FOR CHIEFS OF DIVISION AND DISTRICT PROGRAMS MANAGEMENT OFFICES

SUBJECT: Construction Projects or Elements Directed to be Undertaken in the Energy and Water Development Appropriations Act, 1993.

1. Reference CECW-BA memorandum, 4 November 1992, subject: Work Allowances for Fiscal Year 1993 - Construction, General.

2. The Energy and Water Development Appropriations Act, 1993, (PL 102-377, 2 October 1992) directed that construction of the projects or elements listed below be undertaken using continuing contracts or that no fully allocated funding policy shall apply to such projects or elements.

Locks and Dams 4 and 5 and associated work in Pools 4 and 5, Red River Waterway, LA

Bethel Bank Stabilization, AK

Barbourville, KY, Harlan, KY, Hatfield Bottom, WV, Lower Mingo County, WV, and Matewan, WV, Elements, Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River, WV, VA, and KY

Parallel Protection, Lake Pontchartrain, LA

3. For the projects or elements listed in paragraph 2, indicate in advance notices to bidders published in the Commerce Business Daily, presolicitation notices mailed to prospective bidders, and contract specifications that such contracts were directed to be undertaken by Congress, their inclusion in future budgets is uncertain, and they may be terminated for the convenience of the Government if Congress does not appropriate funds in future fiscal years for each case. If applicable, LCA's must be executed by the non-Federal sponsor and the ASA(CW) for such work before advance notices to bidders are published. Specific instructions for these projects or elements follow:

a. Advance notices to bidders published in the Commerce Business Daily and presolicitation notices mailed to prospective bidders - Include the following statement at the end of the description of work to be accomplished: The Energy and Water Development Appropriations Act, 1993, (PL 102-377, 2 October 1992) directed that a continuing contract be awarded to undertake this work and its inclusion in future budgets is uncertain. If Congress does not appropriate funds in future fiscal years for such work, the contract may be terminated for the convenience of the Government.

b. Contract specifications - Substitute the following for EFARS continuing contract clause 52.232-10001 (b) (1) CONTINUING CONTRACTS (1985 JAN HQ USACE): The sum of $ has been reserved for this continuing contract and is available for payments to the contractor during Fiscal Year 1993. The Energy and Water Development Appropriations Act, 1993, (PL 102-377, 2 October 1992) directed that a continuing contract be awarded to undertake this work. If Congress does not appropriate funds in future years for such work, the contract may be terminated for the convenience of the Government.

4. The Appropriations Act also directed that work be undertaken on many other projects or elements, as noted in the referenced memorandum, without specifying that continuing contracts be awarded. For projects which were directed to be undertaken without specific act language to award continuing contracts and which are not in accord with Administration priorities, advertise and award lump sum contracts in accordance with normal procedures for portions of the projects or elements that can be accomplished with the funds provided in FY 1993 together with any applicable gratuitous and/or required non-Federal contributions after applicable local cooperation agreements (LCA's) are executed by the non-Federal sponsor and the Assistant Secretary of the Army (Civil Works).

Signed

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