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further extension of time will require the approval of the Chief of Engineers.

(c) After he has completed his examination, investigation, determination and notification of the FAA of projects, or portions thereof where seaplane operations will be prohibited or restricted, The District Engineer should periodically reevaluate his determination as additional operational data becomes available. He may modify, delete, or add projects, or portions thereof, where seaplane operations are prohibited or restricted. Except where immediate action is required, he should consult with appropriate public authorities and private interests for their guidance with regard to such actions. Notification of these actions shall be forwarded to the FAA as indicated in paragraph (a)(6) of this section.

### **§ 328.7 Other authorities.**

Nothing in the preceding provisions bestows authority to deviate from rules and regulations or prescribed standards of the State Aeronautical Agency, Federal Aviation Administration, Coast Guard, or other appropriate Federal, state, or local authority.

## **PART 330—REGULATION OF LAW ENFORCEMENT SERVICES CONTRACTS AT CIVIL WORKS WATER RESOURCE PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS**

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AUTHORITY: Sec. 120 of the Water Resource Development Act of 1976, 90 Stat. 2917.

SOURCE: 42 FR 61986, Dec. 8, 1977, unless otherwise noted.

### **§ 330.1 Purpose.**

This regulation provides policy and guidance for the establishment and management of the contract law enforcement program including preparation of and management of contracts ensuing from this program.

### **§ 330.2 Applicability.**

This regulation is applicable to all field operating agencies having responsibilities for Civil Works water resource development projects.

### **§ 330.3 References.**

- (a) Section 4 of the Flood Control Act of 1944, as amended (16 U.S.C. 460d).
- (b) Section 234 of the River and Harbor and Flood Control Act of 1970 (Pub. L. 91-611, 84 Stat. 1818).
- (c) Section 120 of the Water Resource Development Act of 1976 (Pub. L. 94-587, 90 Stat. 2917).
- (d) 36 CFR chapter III.
- (e) ER 190-2-3.
- (f) ER 190-3-4.

### **§ 330.4 General.**

(a) Section 120(a) of reference § 330.3(c) authorizes the Secretary of the Army, acting through the Chief of Engineers, to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resource development projects under the jurisdiction of the Secretary of the Army to meet needs during peak visitation periods.

(b) Further, section 120(b) of the Act authorizes a maximum appropriation of up to \$6,000,000 per fiscal year for the fiscal years ending 30 September 1978 and 30 September 1979, to carry out section 120(a).

### **§ 330.5 Policy.**

(a) It is the policy of the Corps of Engineers to provide, to the extent of its authorities, a safe and healthful environment for public use of lands and waters at Civil Works water resource development projects. To insure this safe and healthful environment, and to augment the citation authorities granted to the Corps of Engineers by reference § 330.3(b), District Engineers, subject to the authority of the Division Engineers, as set out below, are hereby delegated the authority to contract with States or their political subdivisions to obtain increased law enforcement services at Civil Works water resource development projects. Division Engineers are hereby delegated the authority to approve any minor deviations from this

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regulation except that any substantial deviations from the policies expressed within this regulation will require the prior approval of the Chief of Engineers or his authorized representative. Any required approval for deviation shall be made prior to the execution of the contract. When fiscal year 1978 and fiscal year 1979 work allowances are issued, instructions will be furnished on reporting requirements and the control of expenditures.

(b) Contracts for law enforcement services, as authorized in § 330.5(a), shall be subject to the terms and conditions as provided for within this regulation and in accordance with standard contracting and accounting procedures applicable to the Corps of Engineers.

(c) This regulation is not intended to diminish or otherwise limit the existing law enforcement responsibilities of the State or local law enforcement agencies.

(d) Contract law enforcement personnel shall not be given Federal citation authority for enforcement of regulations contained in title 36 of the Code of Federal Regulations, Chapter III nor shall they be empowered to enforce such regulations. These regulations shall remain the responsibility of the Corps of Engineers.

(e) Contracts for increased law enforcement shall be for those projects or portions of projects that are operated and maintained by the Corps of Engineers. Law enforcement services will not be provided under this program to those outgrant areas operated and maintained by a non-Federal sponsor.

### § 330.6 Criteria.

(a) In order to provide reimbursement for law enforcement services supplied by a State or local law enforcement agency, a contract must be executed and approved in accordance with this regulation prior to the provisions of such services.

(b) The authorized contract law enforcement program extends only to 30 September 1979. Law enforcement services acquired by contract under this program shall be limited to those increased law enforcement services required to meet the needs of the public during peak visitation periods. Accordingly, the contract period shall not ex-

tend beyond the dates of 1 April through 30 September inclusive, and in no event shall the contract be written for more than 120 days within that time period. The contract may provide for an option to renew for a similar, additional period not to exceed 120-day period in Fiscal Year 1979. Any exceptions to this criteria must be approved by the Chief of Engineers or his authorized representative.

(c) Contracts shall be consummated only with those public law enforcement agencies legally empowered to enforce State and local criminal and civil laws within their respective political jurisdictions. In light of this requirement and the authority cited in § 330.3(c), it is recognized that sole source negotiations may necessarily be utilized in the procurement of these services. In negotiating law enforcement contracts with these agencies the District Engineer must determine the reasonableness of the price for the law enforcement services offered under the contract. Such a determination shall be made prior to execution of the contract, in accordance with the applicable Contract Cost Principles and Procedures as set out in ASPR, section 15, part 7, and as subject to the policies contained in this regulation. Such a determination shall be contained in the official contract file and must accompany any requests for deviations from the Division Engineer or Chief of Engineers as provided for in § 330.5(a) of this regulation. Contract law enforcement personnel must meet all the qualifications, including minimal law enforcement training, required by State and local laws and regulations.

(d) The contractor shall provide all personnel, equipment and supplies which are required to provide the increased law enforcement services contracted for by the District Engineer. The Corps of Engineers shall not reimburse the contractor for the purchase of any equipment or supplies desired by the contractor for use under this program. However, the Corps of Engineers shall reimburse the contractor for the reasonable costs incurred by him in the rental or use of such equipment which is allocated to the work performed by him under the contract. Such use shall include:

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(1) A depreciation or use allowance for such equipment as determined by the service life evaluation system used by the contractor, and (2) the costs of necessary maintenance, repair, and upkeep of the property which neither adds to the permanent value of the property nor appreciably prolongs its intended life, but keeps it at an efficient operating condition.

(e) Reimbursement for law enforcement services shall be considered only for increased law enforcement services to meet needs during peak visitation periods. Each District Engineer shall evaluate and establish a normal law enforcement service standard for each contract situation and include such standard in the plan of operation to be developed in accordance with § 330.6(h). Each District Engineer shall evaluate the existing law enforcement services now being provided by State or local law enforcement agencies at those water resources projects or recreation areas where it is anticipated that law enforcement service contracts may be executed, and determine the scope including the type and amount, of law enforcement service which exceeds the normal law enforcement standard, and which will become eligible for reimbursement under the contract. Normally, requests by the District Engineer or his authorized representative for emergency or unanticipated law enforcement assistance will be considered nonreimbursable. Increased law enforcement services, eligible for reimbursement under the terms of the contract, shall be those regularly scheduled patrols or surveillance in excess of the normal law enforcement standard presently being provided by the contractor.

(f) An appropriate orientation program will be given by Corps personnel to all contract law enforcement personnel assigned to Corps projects. The purpose of this orientation will be to familiarize the contract law enforcement personnel with the policies and procedures of the Corps of Engineers, and to familiarize Corps personnel with the functions and duties of the State or local law enforcement agency. The Corps of Engineers shall reimburse the contractor for the cost per man hour as

set out in § 330.6(h)(4) for attending the orientation program.

(g) The contractor shall be required to keep a record of the services provided to the District under the terms and conditions of the contract in accordance with the criteria established in the plan of operation required in § 330.6(h).

(h) The District Engineer, in cooperation with the Contractor, shall prepare a Plan of Operation for the Provision of law enforcement services as an attachment to the contract. The Plan of Operation shall contain, but not necessarily be limited to, the following information:

(1) Identify, by name and location, the project or projects and specific areas (recreation and others) that require law enforcement services.

(2) Describe the normal law enforcement services to be provided by the Contractor without reimbursement by the Government (see § 330.6(e)). Identify time of day, number of hours-per-day number of days-per-week, and the number of patrols.

(3) Describe the increased law enforcement services to be provided by the Contractor under the contract. Identify the time-of-day, number of hours-per-day, number of days-per-week, number of patrols, manpower per patrol, and effective starting and ending dates.

(4) Identify the cost-per-man-hour for the provision of reimbursable law enforcement services, and identify the costs for utilization and operation, maintenance and repair of such equipment as allocated for use under the contract. (See § 330.6(d).)

(5) The District Engineer and the Contractor should designate specific individuals to issue or receive requests for reimbursable law enforcement services under the contract.

(6) Describe the billing procedures to be utilized for the increased law enforcement services. The Contractor shall provide, at a minimum, the total charges, the number of hours involved, and starting and ending dates of the billing period.

(7) The Contractor shall prepare a Daily Law Enforcement Log (see § 330.6(g) for the law enforcement services rendered as specified in

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§ 330.6(h)(3)). These logs shall be compiled by the Contractor and submitted to the District Engineer or his designated representative on a regular basis throughout the life of the contract. It is intended by this reporting requirement to minimize the paperwork burden on behalf of the Contractor while, at the same time, providing assurance to the Government with an adequate information base on which to administer the law enforcement services being provided under the contract. Any requirement for additional information to be contained in these reports due to unique or special circumstances encountered in negotiating a Plan of Operation with a particular law enforcement jurisdiction must receive the prior approval of the Division Engineer.

### **§ 330.7 Funding.**

(a) Section 330.3(c) sets forth the maximum authorized funds for law enforcement contracting in FY 1978 and FY 1979. The Division funding levels for FY 1978 are based on information as previously submitted.

(b) The FY 1979 funding request for law enforcement contracting will be submitted as part of the FY 1979 budget submittal.

### **§ 330.8 Annual report.**

(RCS-DAEN-CWO-53) The Division Engineer will submit a consolidated annual report to reach HQDA (DAEN-CWO-R) WASH DC 20314 not later than 30 October. This requirement expires 30 October 1979. The report will contain the following:

- (a) Districts reporting.
- (b) Number assigned each contract.
- (c) Name of projects covered under each contract.
- (d) Number of man-hours of increased law enforcement services provided under each contract.
- (e) Total contract cost.
- (f) Cost per man-hour for each contract.
- (g) Corps of Engineers administrative or overhead costs associated with each contract.
- (h) Number of arrests and type of offense committed, i.e., assault, burglary, auto theft, etc.

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(i) The Division Engineers assessment of the effects of the contract law enforcement program and recommendation.

## **PART 331—REGULATIONS GOVERNING THE PROTECTION, USE AND MANAGEMENT OF THE FALLS OF THE OHIO NATIONAL WILDLIFE CONSERVATION AREA, KENTUCKY AND INDIANA**

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AUTHORITY: Pub. L. 97-137.

SOURCE: 48 FR 40720, Sept. 9, 1983, unless otherwise noted.

### **§ 331.1 Applicability and scope.**

(a) The regulations contained in this part apply to those lands and waters within the established boundary of the Falls of the Ohio National Wildlife Conservation Area (WCA). Included in this boundary, which was published in the FEDERAL REGISTER of August 12, 1982, are publicly and privately owned lands, waters and improvements. The Federal Government, acting through the Corps of Engineers, will acquire such rights to privately-owned properties in the WCA as are necessary to carry out the purposes of title II, Pub. L. 97-137. The regulations prescribed herein are for the use, management and protection of the resources of the