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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 detail contained in the ''Final Integrated Feasibility Report and Programmatic Environmental Impact Statement,'' dated April 1, 1999 and the detailed design necessary to prepare plans and specifications required to

proceed to construction. Prior to requesting approval or authorization for the implementation of a project, 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, complete a Project Implementation Report addressing the project's justification in accordance with section 601(f)(2) of WRDA 2000, and other factors required by section 601(h)(4)(A) of WRDA 2000. To eliminate duplication with State and local procedures, the Project Implementation Report shall also address the factors of relevant State laws, including sections 373.1501 and 373.470 of the Florida Statutes.

(2) Before completion of the draft Project Implementation Report, the Corps of Engineers and the non-Federal sponsor shall provide the South Florida Ecosystem Restoration Task Force with information about the alternative plans developed and evaluated for the Project Implementation Report.

(3) The Project Implementation Report shall:

(i) Be consistent with the Plan and applicable law, policy, and regulation, including the Principles and Guidelines of the Water Resources Council, as modified by section 601(f)(2)(A) of WRDA 2000;

(ii) Be based on the best available science;

(iii) Comply with all applicable Federal, State, and Tribal laws;

(iv) Contain sufficient information for proceeding to final design of the project, such as: additional plan formulation and evaluation, environmental and/or economic benefits, engineering and design, costs, environmental impacts, real estate requirements, and the preparation of the appropriate National Environmental Policy Act documentation;

(v) Contain the information necessary to determine that the activity is justified by the environmental benefits derived by the South Florida ecosystem in accordance with section 601(f)(2)(A) and/or that the benefits of the project are commensurate with costs, and that the project is cost-effective;

(vi) Comply, in accordance with section 601(b)(2)(A)(ii) of WRDA 2000, with applicable water quality standards and applicable water quality permitting requirements;

(vii) Identify, in accordance with § 385.35, the appropriate quantity, timing, and distribution of water dedicated and managed for the natural system;

(viii) Identify, in accordance with § 385.35, the amount of water to be reserved or allocated for the natural system under State law necessary to implement the provisions in paragraphs (a)(3)(vi) and (vii) of this section;

(ix) Identify the quantity, timing, and distribution of water made available for other water-related needs of the region;

(x) Determine, in accordance with § 385.36, if existing legal sources of water are to be eliminated or transferred;

(xi) Determine, in accordance with § 385.37(b) that implementation of the selected alternative will not reduce levels of service for flood protection that:

(A) Were in existence on the date of enactment of section 601 of WRDA 2000; and

(B) Are in accordance with applicable law; and consider, as appropriate, in accordance with § 385.37(c), opportunities to provide additional flood protection;

(xii) Include an assessment of the monetary and non-monetary benefits and costs, optimization and justification, cost-effectiveness, and engineering feasibility of the project;

(xiii) Include a discussion of any significant changes in cost or scope of the project from that presented in the ''Final Integrated Feasibility Report and Programmatic Environmental Impact Statement,'' dated April 1, 1999;

(xiv) Include an analysis, prepared by RECOVER as described in paragraph (c) of this section, of the project's contributions towards achieving the goals and purposes of the Plan, including, as appropriate, suggestions for improving the performance of the alternative plans;

(xv) Describe how the project contributes to the achievement of interim goals established pursuant to § 385.38 and the interim targets established pursuant to § 385.39;

(xvi) Include, in accordance with § 385.28(c), a draft Project Operating Manual as an appendix; and

(xvii) Include, as appropriate, information necessary for the non-Federal sponsor to address the requirements of Chapter 373 of the Florida Statutes, and other applicable planning and reporting requirements of Florida law.

(4) The Corps of Engineers and the non-Federal sponsor shall develop the Project Implementation Report generally in accordance with the process shown in figure 2 in Appendix A of this part.

(5) The Corps of Engineers and the South Florida Water Management District shall develop a guidance memorandum in accordance with § 385.5 for approval by the Secretary of the Army, with the concurrence of the Secretary of the Interior and the Governor, that describes the major tasks that are generally needed to prepare a Project Implementation Report and the format and content of a Project Implementation Report.

(b) *Formulation and evaluation*. In preparing a Project Implementation Report, the Corps of Engineers and the non-Federal sponsor shall formulate and evaluate alternative plans to optimize the project's contributions towards achieving the goals and purposes of the Plan, and to develop justified and cost-effective ways to achieve the benefits of the Plan.

(1) *General*. The Corps of Engineers and the South Florida Water Management District shall develop a guidance memorandum in accordance with § 385.5 for approval by the Secretary of the Army, with the concurrence of the Secretary of the Interior and the Governor, that describes the processes to be used to formulate and evaluate alternative plans and their associated monetary and non-monetary benefits and costs, determine cost-effectiveness and optimize the project's contribution towards achieving the goals and purposes of the Plan, and the basis for justifying and selecting an alternative to be recommended for implementation. The guidance memorandum shall also provide a process for evaluating projects that are outside the boundary of regional computer models or projects whose effects cannot be captured in regional computer models. Project Implementation Reports approved by the Secretary of the Army before December 12, 2003 or before the development of the guidance memorandum may use whatever method that, in the Secretary of the Army's discretion, is deemed appropriate and is consistent with applicable law, policy, and regulations.

(2) *Project formulation and evaluation*. The guidance memorandum shall describe the process for formulating and evaluating alternative plans for their ability to optimize contributions for achieving the goals and purposes of the Plan. The guidance memorandum shall describe the process for including each alternative plan with all of the other components of the Plan and evaluating the total monetary and non-monetary benefits and costs of the resulting comprehensive plan when compared to the without CERP condition. In formulating alternative plans to be evaluated, the project as described in the ''Final Integrated Feasibility Report and Programmatic Environmental Impact Statement,'' dated April 1, 1999 shall be included as one of the alternative plans that is evaluated. For the selected plan, the guidance memorandum shall also describe the process for evaluating that plan as the next-added increment of the Plan.

(3) *Identification of selected alternative plan*. The guidance memorandum shall also include a process for identification of a selected alternative plan, based on the analyses conducted in paragraph (b)(2) of this section. The alternative plan to be selected should be the plan that maximizes net benefits, both monetary and non-monetary, on a system-wide basis, provided that this plan is justified on a next-added increment basis. Alternative plans that are not justified on a next-added increment basis shall not be selected. The guidance memorandum shall describe an iterative process for evaluating and/or combining alternative options until an alternative is identified that maximizes net benefits while still providing

benefits that justify costs on a next-added increment basis.

(c) *RECOVER performance evaluation of alternative plans.* (1) Prior to the identification of a selected alternative plan, RECOVER shall evaluate the performance of alternative plans towards achieving the goals and purposes of the Plan.

(2) RECOVER shall prepare information for the Project Delivery Team describing the results of the evaluations of alternative plans developed for the Project Implementation Report towards achieving the goals and purposes of the Plan, including, as appropriate, suggestions for improving the performance of the alternative plans.

(d) *NEPA documentation for Project Implementation Reports.* (1) The Corps of Engineers and the non-Federal sponsor shall prepare the appropriate NEPA document to accompany the Project Implementation Report. The NEPA document shall contain an analysis of the effects of the alternatives formulated for the Project Implementation Report. The NEPA document for the Project Implementation Report shall use the Programmatic Environmental Impact Statement included in the ''Final Integrated Feasibility Report and Programmatic Environmental Impact Statement,'' dated April 1, 1999, as appropriate, for the purpose of tiering as described in § 230.14(c) of this chapter.

(2) The District Engineer shall prepare the Record of Decision for Project Implementation Reports. Review and signature of the Record of Decision shall follow the same procedures as for review and approval of feasibility reports in § 230.14 of this chapter and other applicable Corps of Engineers regulations.

(e) *Fish and Wildlife Coordination Act requirements.* (1) The Corps of Engineers and the non-Federal sponsor shall coordinate with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the Florida Fish and Wildlife Conservation Commission, and other appropriate agencies in the preparation of a Project Implementation Report, as required by applicable law.

(2) The Project Management Plan shall include a discussion of activities to be conducted for compliance with the Fish and Wildlife Coordination Act and other applicable laws.

(3) Consistent with applicable law, policy, and regulations, coordination shall include preparation of the following documents as shown in figure 2 in Appendix A of this part:

(i) Planning Aid Letter that describes issues and opportunities related to the conservation and enhancement of fish and wildlife resources; and

(ii) Draft and final Fish and Wildlife Coordination Act Reports that provide the formal views and recommendations of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, and the Florida Fish and Wildlife Conservation Commission on alternative plans.

(f) *Project Implementation Report review and approval process.* (1) The Corps of Engineers and the non-Federal sponsor shall provide opportunities for the public to review and comment on the draft Project Implementation Report and NEPA document, in accordance with § 385.18 and applicable law and Corps of Engineers policy.

(2) The Project Implementation Report shall contain an appropriate letter of intent from the non-Federal sponsor indicating concurrence with the recommendations of the Project Implementation Report.

(3) Upon the completion of the Project Implementation Report and NEPA document, the District Engineer shall submit the report and NEPA document to the Division Engineer.

(4) Upon receipt and approval of the Project Implementation Report the Division Engineer shall issue a public notice announcing completion of the Project Implementation Report based upon:

(i) The Division Engineer's endorsement of the findings and recommendations of the District Engineer; and

(ii) The Division Engineer's assessment that the project has been developed and the report prepared in accordance with current law and policy. The notice shall indicate that the report has been submitted to Corps of Engineers Headquarters for review.

(5) Headquarters, U.S. Army Corps of Engineers shall conduct a review in accordance with applicable policies and regulations of the Corps of Engineers.

Headquarters, U.S. Army Corps of Engineers shall administer the 30-day state and agency review of the Project Implementation Report, and as appropriate, file the Environmental Impact Statement with the Environmental Protection Agency.

(6) After completion of the review and other requirements of law and policy, the Chief of Engineers shall submit the Project Implementation Report and the Chief of Engineers' recommendations on the project to the Assistant Secretary of the Army for Civil Works.

(7) The Assistant Secretary of the Army for Civil Works shall review all Project Implementation Reports, and shall, prior to either approving them or submitting the Assistant Secretary's recommendations to Congress, coordinate the project and proposed recommendations with the Office of Management and Budget.

(i) For projects authorized by section 601(c) of WRDA 2000, the Assistant Secretary of the Army for Civil Works shall review and approve the Project Implementation Report prior to implementation of the project.

(ii) For projects authorized by section 601(b)(2)(C) of WRDA 2000, the Assistant Secretary of the Army for Civil Works shall review the Project Implementation Report prior to submitting the Assistant Secretary's recommendations to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate for approval.

(iii) For all other projects, the Assistant Secretary of the Army for Civil Works shall review the Project Implementation Report prior to submitting the Assistant Secretary's recommendations regarding authorization to Congress.

§ 385.27 Project Cooperation Agreements.

(a) *General*. Prior to initiating construction or implementation of a project, the Corps of Engineers shall execute a Project Cooperation Agreement with the non-Federal sponsor in accordance with applicable law.

(b) *Verification of water reservations*. The Project Cooperation Agreement shall include a finding that the South Florida Water Management District or the Florida Department of Environmental Protection has executed under State law the reservation or allocation of water for the natural system as identified in the Project Implementation Report. Prior to execution of the Project Cooperation Agreement, the District Engineer shall verify in writing that the South Florida Water Management District or the Florida Department of Environmental Protection has executed under State law the reservation or allocation of water for the natural system as identified in the Project Implementation Report. The District Engineer's verification shall provide the basis for the finding in the Project Cooperation Agreement and be made available to the public.

(c) *Changes to water reservations*. Reservations or allocations of water are a State responsibility. Any change to the reservation or allocation of water for the natural system made under State law shall require an amendment to the Project Cooperation Agreement.

(1) The District Engineer shall, in consultation with the South Florida Water Management District, the Florida Department of Environmental Protection, 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, and other Federal, State, and local agencies, verify in writing that the revised reservation or allocation continues to provide for an appropriate quantity, timing, and distribution of water dedicated and managed for the natural system after considering any changed circumstances or new information since completion of the Project Implementation Report. In accordance with applicable State law, the non-Federal sponsor shall provide opportunities for the public to review and comment on any proposed changes in the water reservation made by the State.

(2) The Secretary of the Army shall notify the appropriate committees of Congress whenever a change to the reservation or allocation of water for the natural system executed under State law as described in the Project Implementation Report has been made. Such