

Cost Sharing and Staying in Balance, Including Lands, Easements, Rights-of-Way, Relocations, and Disposals (LERRD) Crediting: The Who, What, How and When



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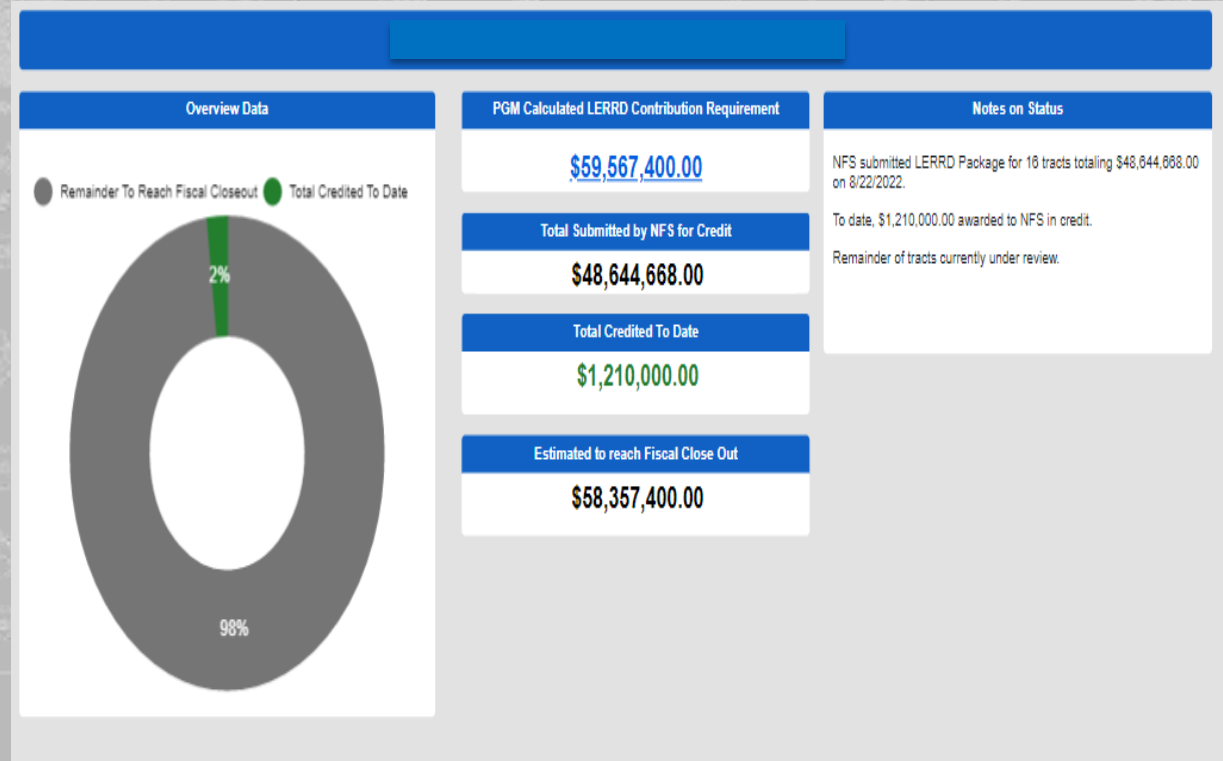


COST SHARING AND STAYING IN BALANCE INCLUDING LANDS, EASEMENTS RIGHTS-OF-WAY, RELOCATIONS, AND DISPOSALS (LERRD) CREDITING– THE WHO, WHAT, HOW, AND WHEN

Bryan Williams, Program Analyst
 Kenny Pablo, Realty Specialist
 Arnette Rose, Cost Share Control Manager
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US Army Corps of Engineers®





WHAT IS COST SHARE?



- A shared cost between the Federal government and the Non-Federal Sponsor (local, state, and municipalities) in which the project is funded by a direct Federal appropriation and the Non-Federal proportionate share (Cash, Work-In-Kind, LERRD).
- Cost Share Agreement:
 - The agreement describes the work to be accomplished and the responsibilities of the Government and the Non-Federal Sponsor in the cost sharing and execution of such work.
- Types of Agreements:
 - 3121 - Investigations
 - Feasibility Cost Share Agreement (FCSA)
 - Design Agreement (DA)
 - 3122 - Construction
 - Project Partnership Agreement (PPA)

PROJECT PARTNERSHIP AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND

THIS AGREEMENT is entered into this 29th day of November, 2019, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S Army Engineer, Galveston District and [redacted] (hereinafter the "Non-Federal Sponsor"), represent sioners.

WITNESSETH, THAT:

WHEREAS, construction of the [redacted] coastal storm risk management project (hereinafter the "A [redacted] y Section 1401(3)(3) of the Water Resources Development Act of 2018, Public Law 115-270;

WHEREAS, the Government and the Non-Federal Sponsor desire to enter into a Project Partnership Agreement to construct the Port Arthur and Vicinity separable element of the Authorized Project (hereinafter the "P [redacted] nent);

WHEREAS, Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2213), specifies the cost-sharing requirements applicable to the Project;

WHEREAS, appropriations provided under the Construction heading, Title IV, Division B of the Bipartisan Budget Act of 2018, Public Law 115-123 enacted February 9, 2018 (hereinafter "BBA 2018"), currently estimated at \$863,000,000.00, are available to undertake construction of the Project, and, to the extent that BBA 2018 funds are available and used for such purpose, the Non-Federal Sponsor is allowed, but not required, to finance its required non-Federal cash contributions in accordance with the provisions of Section 103(k) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(k)), with the interest rate for the amount financed determined in accordance with Section 106 of the Water Resources Development Act of 1986 (33 U.S.C. 2216);

WHEREAS, the provisions of Section 902 of the Water Resources Development Act of 1986, as amended, do not apply to the funds provided in BBA 2018 that will be used for construction of the Project;

WHEREAS, 33 U.S.C. 701h authorizes the Government to undertake, at the Non-Federal Sponsor's full expense, additional work while the Government is carrying out the Project;



INITIATE / BALANCE COST SHARE



INITIATE

- Cost Share Team in the Programs Branch receives a signed agreement from the Project Manager which is forwarded to the Cost Share Control Manager in the Resource Management Office (RMO) to establish a cost share record in the Corps' Financial Management System (CEFMS).
- Federal funding is received through a Funding Authorization Document (FAD).
- Non-Federal Sponsor's proportionate share is requested by the Cost Share Team.

BALANCING

- Expenditure Report – Frequency is stated in the agreement (monthly, yearly, etc.)
- Request WIK/LERRD packages (if applicable)

US ARMY CORPS OF ENGINEERS
CEFMS COST SHARE CONTROL RECORD
INITIATION FORM

Initial Complete entire form New Phase Complete applicable areas

INSTRUCTIONS

For each new cost share agreement or phase where a new cost share record will be created, PM should:

- Complete page 1 and 2 of this form
- Forward to the Cost Share Control Manager

Sponsor Information

Name: Williams Navigation District
 Attn: Bryan Williams, Executive Director
 Address: 400 W. Williams Ave, Ste 200
 City: Galveston State: TX Zip: 77580
 Phone: 409-XXX-XXXX Fax: _____
 Email: _____
 Tax Id No.: _____

Cost Share Control Record Information

Project Start Date: 11/4/2021 Est. Project End Date: 9/30/2023
 Project Name/Description: GALVESTON COUNTY NAVIGATION DISTRICT

Proportionate Share (per agreement):	Federal	Non-Federal
Total Est. Shared Project Cost:	\$ 350,000.00	
Federal Amount:	\$ 175,000.00	% 50%
Sponsor Cash Amount:	\$ 75,000.00	% 21%
Sponsor Est. WIK Amount:	\$ 100,000.00	% 29%
Sponsor Est. LERRD Amount:	\$ -	% 0%
Est. Unshared Cost:	\$ -	

NOTE: Unshared project costs may consist of both Federal and Non-Federal costs.

Explanation: _____



CLOSING THE COST SHARE



Project Manager

- Do a final scrub of the project to ensure all WIK/LERRD packages have been received and forwarded to the Cost Share Team.
- Inform the Scheduling Team and the Cost Share Team that the project is now complete and to begin the closeout process.

Cost Share Team

- Conduct final project accounting procedures.
 - Final expenditure report
 - Initiate return of excess Federal and Non-Federal funding (if applicable)

Cost Share Control Manager

- Close out project in the Corps' Financial Management System (CEFMS)



WHAT IS A LERRD?

- LERRDS are the Lands, Easements, Right of Ways, Relocations, and Disposals (LERRDs) determined to be required for construction, operation, and maintenance of a federal project by the project development team (PDT) with the Non-Federal Sponsor .
- Generally, the value of the LERRDs required for the project is applied to the project cost share
- When executed, the Project Partnership Agreement will contain an estimated LERRD contribution as it relates to the fulfillment of the cost share requirements.
 - This amount will be further refined throughout the project



PGM Calculated LERRD Contribution Requirement	Total Credited To Date
\$5,849,055.00	\$3,127,654.45
Total Submitted by NFS for Credit	Estimated to Reach Fiscal Close Out
\$7,941,888.70	\$2,721,400.55
LERRD AVAILABILITY	CURRENT STATUS
Ineligible under LERRD Umbrella: \$4,234,806.18 FE Denied: \$1,130,816.17	FE awarded final credits under LERRD 27 June 2022

Ex/Title	Legal Fees	View Details
Submitted: \$2,051,481.67 Disqualified: \$761,159.37 Approved: \$1,000,381.20 Notes: Letter from Nov 17, 2022 approving \$1,000,381.20	Submitted: \$453,386.41 Disqualified: \$0 Recommended: \$453,386.41 Notes: See Freeport 45 Legal Fees Spreadsheet - Disputed in table for details through \$453,386.41 purchase of 100% feeble amount View 45 Legal Fees	Submitted: \$1,100,000.00 Disqualified: \$1,100,000.00 Recommended: \$0 Notes: These fees are all related to construction of new. Dispositions include "beginning project management", "construction" phase, etc. View 45 View Details

Public Street Lanes and Turning Basin Enlargement	Drainage Disposal	Miscellaneous Expenses
Submitted: \$1,001,388.00 Disqualified: \$1,001,388.00 Recommended: \$0 Notes: HTN 1000 is issued authorization to bid \$1,001,388.00. Currently \$247,800.00 of miscellaneous construction labor and materials is deployed - see LERRD 03 goals View 45 Storm Drainage Lanes	Submitted: \$1,000,000.00 Disqualified: \$1,000,000.00 Recommended: \$0 Notes: Fees bill to be VAW in Construction Contract LERRD 03 goals View 45 Public Street Lanes	Submitted: \$102,841.00 in 40M18 850,477.00 in 419M19 (updated) Disqualified: \$102,841.00 Recommended: \$102,841.00 Notes: Submission accounts \$102,841.00. Look for VAW Construction costs - not LERRD eligible View 45 Miscellaneous Expenses

Mitigation	Quinn's Township
Submitted: \$274,102.54 Disqualified: \$274,102.54 Recommended: \$0 Notes: Account 8003388.00 can be removed as LERRD cost. \$274,102.54 is in P16 or Construction Cost associated with Environmental Study View 45 Mitigation	Submitted: \$1,491,242.00 Disqualified: \$1,491,242.00 Recommended: \$15,048.00 Notes: Per agreement, only Ebooks 1-7, 8 less 1 and 12, 11 and 12, 15 part of 16, 10 and 2 and 4 of 10, 1, 7, and 12. All other books are 15 and 6, 17 and 11, 12, 13, 14, 15, 16, and 18 less 1 and 2 more required for construction and the new 16 for credit View 45 Quinn's Township



THE LERRD LIFECYCLE



Feasibility	Pre-Construction, Engineering and Design	Construction	Post Construction
<ul style="list-style-type: none">• PDT development of initial RE Requirements<ul style="list-style-type: none">• Standard Estate(s) determined• Impacted parcels identified• Known utility locations identified and impact assessment made• Initial LERRD Cost Estimate developed	<ul style="list-style-type: none">• Real Estate Requirements refined alongside design• Estimated LERRD Cost updated• PPA Executed• Notice to Proceed with Acquisition(s) and Relocation(s) sent from USACE to NFS• NFS begins acquisition tasks (survey, title work, appraisal, negotiations, etc)• NFS begins packaging LERRD documents	<ul style="list-style-type: none">• All RE for construction contracts secured prior to award• Any relocations to be done concurrent with construction begin• NFS begins submittal of LERRD documents/packages as available• LERRD Review's begin	<ul style="list-style-type: none">• Physical Project Completion• Any unsubmitted LERRD packages are submitted• USACE works with NFS to fill any LERRD Data Gaps• Final LERRD reviews are completed• Project Fiscal Completion



COMMON LERRD MISTAKES/RISKS



MISTAKES

- Not submitting all creditable expenses (including but not limited to: attorney's fees, title fees, recording fees, survey fees, appraisal fees, etc.)
- Valuing property prior to the execution date of the PPA
- Purchasing full parcels when only partial acquisition is required
- Purchasing the incorrect estate (Fee vs Easement)
- Not submitting justification for deviation on market value (i.e. purchasing a tract valued at \$100k for \$110k with no explanation for reviewer)

RISKS

- Purchasing LERRDs prior to execution of PPA
 - Purchasing LERRDs prior to the receipt of a Notice to Proceed with Acquisition (risk purchasing too much or not enough, which will affect credit amount)



IN-KIND CREDIT PACKAGES



Non-Federal Sponsor Requirements:

- Provide status regarding whether credits have been earned and the amount earned every 90 days
- Establish a schedule when the credit packages will be submitted (should not exceed a 6-month interval).
- Maintain sufficient documentation (invoices, receipts, etc.) for 3 years after fiscal completion of the project IAW the applicable Cost Share Agreement.
- Provide a cover letter to accompany all credit requests. Letter should reference the project name, applicable cost share agreement, total amount of credit requested, and period of performance.
- Documentation should include a summary of expenditures that comprise the credit request. This may be in spreadsheet format and should be summarized by charges of effort (design, construction, labor, etc.
- Documentation should describe work performed and provide sufficient detail to determine if the work effort presented is reasonable in scope and cost, integral to the study or project, as applicable, and allowable per the cost share agreement.



IN-KIND CREDIT SUPPORTING DOCUMENTATION



- CONTRACTS

- Vendors' invoice(s) paid by the Sponsor. Invoices must include:
 - Reference information identifying the project
 - Description of work performed
 - Period of Performance
 - Billed amount
- Check or other proof of disbursement (must include a reference to the check number being paid)

- OTHER IN-HOUSE DIRECT CHARGES

A report/print-out from the sponsor's accounting system providing cost distributions to the project/activity by type of charge. For example, for a piece of equipment, number of days/hours used, daily/hourly rate total amount requested for credit.



IN-KIND CREDIT SUPPORTING DOCUMENTATION



- DIRECT LABOR
 - A report/print-out generated from the sponsor's accounting system providing the total direct labor cost being requested for each employee. For example, the report/print-out will contain at a minimum the number of hours worked on the project, the hourly rate of the employee to include all fringe benefits.
 - A certified statement from the sponsor stating that all employees' cost were directly related to work performed by the sponsor.
- INDIRECT/OVERHEAD COSTS (if applicable)
 - A report/print-out generated from the sponsor's accounting system providing the total indirect/overhead cost distribution. For example, the basis for the cost (hours/dollars), the rate and the total dollar amount requested for credit.
 - Proof an audit was conducted on the NFS financial statements