USACE Perspective
Opportunities and Challenges in Advancing Louisiana Coastal Restoration Using Work-in Kind and Cross-Crediting Legislation

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Title VII Section 7007 of WRDA 2007

- Congress contingently authorized nearly $2B in large-scale ecosystem restoration projects
- Direct reaction to the well-documented coastal degradation of the Mississippi River Delta
  - Highlighted by Hurricane Katrina in 2005
- Attempted to provide a unique ability to advance work ahead of the federal government
  - Credit
  - Transfer of credit
Section 1019 of WRRDA 2014

- This amendment rectifies a limitation contained in the original Section 7007 of WRDA 2007.

- Section 1019 is unique to LCA, however:
  - Section 1018 and 1020 are intended to work just like the LCA favorable authority.

- Implemented IAW Section 221 of Flood Control Act 1070, as amended.
  - MOA prior to execution
  - Integral Work Determination
LCA WIK/Cross Crediting

Implementation Definitions

- “WIK Credit” - Credit afforded the NFS at the completion of a separable element upon request with supporting documentation.
  - Includes MOA agreement

- “Excess Credit” – Credit determined at the completion of an executed Design or Construction agreement where the NFS has provided more than their required obligation.
LCA WIK/Cross Crediting

Implementation Definitions

- “Transfer of Excess Credit” – Section 1019 affords the NFS the ability to transfer excess credit among any project in Title VII.
- Transfer – can only happen at the completion of a project.

- “Acceptable forms of payment”
  - Cash
  - Work-in-Kind
  - Excess credit
LCA WIK/Cross Crediting

Implementation Definitions

- MOA does not guarantee credit, it only preserves the ability to seek credit.

- Potential WIK credit will accrue on any project/study once initiated IAW PMP and/or Integral Determination.

- Until the project/study is completed, WIK credit cannot be determined and therefore cannot be transferred.
Projects Eligible for WIK Cross Crediting

**Independent State Led Efforts**
- State Submit LOI to seek credit/prioritize
- Execute MOU for Authorized Project
- Initiate Fed. Budget Request
- Approval of IWD for Design
- Execute DA/PPA for separable elements
- State Initiates/Completes Design and/or Construction
- Approval of IWD for construction
- Project/ separable element Complete?
- Yes: Project Closeout
- No: Excess WIK Logged in CEFMS

**USACE Led Efforts**
- State Submit LOI to use credit
- Initiate Fed. Budget Request per State request to use excess credit
- Receive Federal Funds
- Avail. Excess Credit Sufficient to Match Avail. Fed Funds
- Yes
- No: Execute Agreement DA or PPA
- State Provides Required Cost Share
- USACE Initiates/Completes Design/Construction
- Funds Sufficient to Complete Design/Construction
- Yes: Project Closeout
- No

*Federal request will be for 100% of project cost.*

IWD = Integral Work Determination
LCA WIK/Cross Crediting

Example

- **BBBS - $499,000,000**
  - Fed 65% - $324,350,000
  - Non-Fed 35% - $174,650,000

- **Convent/Blind River - 144,000,000**
  - Fed 65% - $93,600,000
  - Non-Fed 35% - $50,400,000

➢ State wants to transfer credit from BBBS to Convent/Blind River

1) Federal interest is determined through Chief of Engineers Report or equivalent.
2) Project is fully authorized for Construction
3) Project is added/listed on list of projects to potentially receive WIK credit
4) PPA/DA Agreement is executed for BBBS and Convent/Blind River authorized projects
5) Federal allocation will be assigned to Convent/Blind River project.
6) Upon Federal allocation for Convent/Blind River, NFS can use “Excess Credit” to cover NFS obligation.
LCA WIK/Cross Crediting Challenges

- Must follow all federal laws/policy/regulations
  - Real Estate
  - Operation & Maintenance

- Federal appropriations will continue to be a challenge
  - Ideally, perform IWD prior to the State initiating construction

- Project Partnership Agreements must be executed