

accordance with this regulation, and only upon the request of such non-Federal sponsors.

(2) A sponsor is required for implementation of an NSAP. The NSAP sponsor must be either a non-Federal sponsor as defined in § 203.15, or another Federal agency. The NSAP sponsor must demonstrate that it has the legal authority and financial capability to provide for the required items of local cooperation.

(3) The Corps shall not be responsible for the operation, maintenance, or management of any NSAP implemented in accordance with this section.

(4) The Corps may, in its sole discretion, reject any request for an NSA that would:

(i) Lead to significantly increased flood protection expenses or flood fighting expenses for public agencies, flood control works sponsors, public utilities, or the Federal Government; or,

(ii) Threaten or have a significant adverse impact on the integrity, stability, or level of protection of adjacent or nearby flood control works; or,

(iii) Lead to increased risk of loss of life or property during flood events.

(5) The principal purposes of an NSAP are for:

(i) Floodplain restoration;

(ii) Provision or restoration of floodways; and,

**Note to paragraphs (b)(5)(i) and (ii):**

Habitat restoration is recognized as being a significant benefit that can be achieved with an NSAP, and may be a significant component of an NSAP, but is not considered to be a principal purpose under PL 84-99 authority.

(iii) Reduction of future flood damages and associated flood control works repair costs.

(c) *Limitation on Corps Expenditures.* Exclusive of the costs of investigation, report preparation, engineering and design work, and related costs, Corps expenditures for implementation of an NSAP are limited to the lesser of the Federal share of rehabilitation construction costs of the project were the flood control work to be structurally rehabilitated in accordance with subpart D of this part, or the Federal share of computed benefits which would be derived from such structural rehabilitation. This limitation on Corps expenditures may be waived by the Director of Civil Works or the Chief, Operations Division, Directorate of Civil Works when compelling reasons exist.

(d) *Responsibilities of the NSAP non-Federal sponsor:*

(1) Operate and maintain the NSAP;

(2) Provide, or arrange for and obtain, all funding required to implement the

NSAP in excess of the limitation established in paragraph (c) of this section.

(3) Accept the transfer of ownership of any lands or interests in lands acquired by the Corps and determined by the Corps to be necessary to implement the NSAP.

(e) *Responsibilities of other Federal agencies acting as NSAP sponsor.* The Corps may participate with one or more Federal agencies in NSAP's. If the Corps is the lead Federal agency, based on mutual agreement of the Federal agencies, then a non-Federal NSAP sponsor is required. (See paragraph (d) of this section.) If another Federal agency is the lead Federal agency, then Corps participation in the NSAP will be based on the content of this section, with appropriate allowances for effecting an NSAP in accordance with the authority and ultimate goal of the lead Federal agency. In such cases, a Memorandum of Agreement between the Corps and the lead Federal agency is required, in accordance with paragraph (1) of this section.

(f) *Responsibilities of the requesting flood control work project sponsor.* (1) The flood control work project sponsor must request the Corps undertake an NSA project in lieu of rehabilitation of the flood control work, in accordance with the sponsor's applicable laws, ordinances, rules, and regulations.

(2) If not also the NSAP sponsor, the flood control work project sponsor must:

(i) Divest itself of responsibility to operate and maintain the flood control work involved in the NSAP; and

(ii) Provide to the NSAP sponsor such lands or interests in lands as it may have which the Corps determines are necessary to implement the NSAP.

(g) *Allowable Public Law 84-99 expenses for NSAP's.* (1) Acquisition of land or interests in land.

(2) Removal of structures, including manufactured homes, for salvage and/or reuse purposes.

(3) Demolition and removal of structures, including utility connections and related items.

(4) Debris removal and debris reduction.

(5) Removal, protection, and/or relocation of highways, roads, utilities, cemeteries, and railroads.

(6) Construction to promote, enhance, control, or modify water flows into, out of, through, or around the nonstructural project area.

(7) Nonstructural habitat restoration, to include select planting of native and desirable plant species, native species nesting site enhancements, etc.

(8) Total or partial removal or razing of existing reaches of levee, to include removal of bank protection features and/or riprap.

(9) Protection/floodproofing of essential structures and facilities.

(10) Supervision, administrative, and contract administration costs of other expenses allowed in this subparagraph.

(h) *Time limitation.* Corps participation in development and implementation of an NSAP may cease, at the sole discretion of the Corps, one year after the date of approval of rehabilitation of the damaged flood control work or the date of receipt of the flood control work public sponsor's request for an NSAP, whichever is earlier, if insufficient progress is being made to develop and implement the NSAP for reasons beyond the control of the Corps. In such circumstances, the Corps may, at its sole discretion, determine that Rehabilitation Assistance for the damaged flood control project may also be denied.

(i) *Participation and involvement of other Federal, State, tribal, local, and private agencies.* Nothing in this section shall be construed to limit the participation of other Federal, State, tribal, local, and private agencies in the development, implementation, or future operations and maintenance of an NSAP under this section, subject to the limitations of such participating agency's authorities and regulations.

(j) *Future assistance.* After transfer of NSAP operation and maintenance responsibility to the NSAP sponsor or the lead Federal agency, flood-related assistance pursuant to Public Law 84-99 will not be provided anywhere within the formerly protected area of the flood control work, except for rescue operations provided in accordance with § 203.13(b). As an exception, on a case-by-case basis, certain structural flood control works (or elements thereof) repaired or set back as part of the implementation of an NSAP having a non-Federal sponsor may be considered for future flood-related assistance.

(k) *Environmental considerations.* NSAP's are subject to the same environmental requirements, restrictions, and limitations as are structural rehabilitation projects.

(l) *Requirements for Cooperation Agreement (CA)/Items of Local Cooperation.* (1) Requirement for Local Cooperation. In order to clearly define the obligations of the Corps and of non-Federal interests, a CA with the NSAP non-Federal sponsor is required. Requirements are addressed in paragraphs (1)(2) through (10) of this section. When another Federal agency is the lead Federal agency, a Memorandum