

## FLOOD PROTECTION TEAM

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## EXECUTIVE ORDER 13690 FEDERAL FLOOD RISK MANAGEMENT STANDARD

### Requested Action:

The Sacramento region seeks the continued opportunity to proactively and directly engage in the development and review of guidance on Executive Order 13690, including participation in workshops sponsored by federal agencies before issuing draft guidance and a chance to provide meaningful feedback on the draft guidance. This specifically includes the development of agency-level implementing procedures for the U.S. Army Corps of Engineers (USACE) and the Federal Emergency Management Agency (FEMA).

### Background:

On January 30, 2015, President Obama issued Executive Order (EO) 13690 titled, *Establishing a Federal Flood Risk Standard and a Process for Further Soliciting and Considering Stakeholder Input*. EO 13690 amends EO 11988 on Floodplain Management by adopting a higher flood standard for future federal investments and other federal actions in and affecting floodplains. These investments and approvals will be required to meet the level of resilience established through the Federal Flood Risk Management Standard (FFRMS). This includes projects where federal funds are used to build new structures and facilities or to rebuild those that have been damaged. The FFRMS ensures that buildings are constructed to withstand the impacts of flooding, improves the resilience of communities, and protects federal investments.

California's Central Valley has a long history of flooding and relies on an elaborate network of reservoirs, levees, and bypasses to store or convey flood flows and reduce the risk of loss of life and damage. The 1997 flood served as a wake-up call for California's Central Valley. Dozens of federally authorized levees experienced breaches during the flood event, many occurring well below the design water surface elevation.

Since this flood, the Sacramento region has progressively sought to reduce flood risk and increase levee system resilience through a combination of improved emergency response, levee improvement projects, and smart growth initiatives. Ongoing levee improvement projects in the planning, design, and construction phases are critical to significantly reduce life safety risk to more than one million people already living in the floodplain and improve protection for tens of billions of dollars of existing infrastructure.

The Sacramento region welcomes establishment of the FFRMS and any national policy striving to reduce flood risk beyond the base flood using "best available, actionable data and methods that integrate current and future changes in flooding based on science." Indeed, through adoption of the Central Valley Flood Protection Plan and current investigations into how climate change may impact system response, the region is at the forefront of considering improved system resilience in a broad portfolio of flood risk management actions.

The FFRMS requires agencies to consider the best available, actionable science of both current and future risk when taxpayer dollars are used to implement an action in the floodplain. An action is defined as any of the following federal activities: (1) acquiring, managing, and disposing of federal lands and facilities; (2) providing federally undertaken, financed, or assisted construction and improvements; and (3) conducting federal activities and programs affecting land use, including but not limited to, water and related land resources planning, regulating, and licensing activities.

It also establishes the flood level to which new and rebuilt federally-funded structures or facilities must be resilient. In implementing the FFRMS, individual agencies have the flexibility to select one of three following approaches for establishing the flood elevation and hazard area they use in siting, design, and construction:

- Utilizing best available, actionable data and methods that integrate current and future changes in flooding based on climate science;
- Two or three feet of additional elevation, depending on the criticality of the building, above the 100-year, or 1%-annual-chance, flood elevation; or
- 500-year, or 0.2%-annual-chance, flood elevation.

EO 11988, issued by President Carter in 1977, was implemented "in order to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains..." The order directed all federal agencies to exercise judgment in seeking to reduce flood damage and impacts to floodplains by not issuing permits or providing funds for floodplain development where practicable alternatives exist. For more than 30 years, this order has remained on the books and has been implemented in varying degrees by different federal agencies.

EO 13690 and the FFRMS reinforce the important tenets and concepts articulated in EO 11988, such as avoiding actions in or impacting the base floodplain and minimizing potential harm if an action must be located in the base floodplain. However, EO 13690 and the FFRMS call for agencies to use a higher flood elevation and expanded flood hazard area than the base flood previously described in EO 11988 to ensure that climate change and other future changes are more adequately accounted for in agency decisions.

EO 13690 also establishes a process for further soliciting and considering stakeholder input. A national policy document titled *Revised Guidelines for Implementing Executive Order 11988, Floodplain Management* (Guidelines) was developed to guide individual agencies with the implementation of Executive Order 11988, as amended, consistent with the new FFRMS. These Guidelines were published by the Federal Emergency Management Agency (FEMA) in the Federal Register on February 5, 2015.

During a public comment period lasting 90 days, FEMA and other members of the Mitigation Framework Leadership Group (Mit-FLG) held eight, in-person, public listening sessions across the country and one public webinar to ensure input from stakeholders and the public on the Guidelines. Upon considering the more than 2,700 individual issue-specific comments received, the Mit-FLG provided the Water Resources Council (WRC) with recommended revisions to the Guidelines.

On October 8, 2015, the WRC approved the Mit-FLG's recommendations and issued *Guidelines for Implementing Executive Order 11988, Floodplain Management, and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input* (Final Guidelines). These Final Guidelines offer a common point of reference for each affected agency to prepare implementing procedures. They recognize: (1) the impossibility of anticipating the full range of individual program situations affected by the FFRMS, and (2) the responsibility of individual agencies to tailor implementing procedures to meet their legislatively prescribed missions.

### **Opportunity for Meaningful Input:**

Based on the WRC's adoption of Final Guidelines, the process transitions to the development of implementing procedures at individual agencies. The process of translating the broad policy goals established in EO 13690 and the Final Guidelines into implementing procedures at the agency level is a critical step in the overall process. Stakeholders, partners, and project sponsors actively engaged in individual agency programs must be provided the opportunity to provide meaningful input into the development of the implementing procedures; and, as importantly, each individual agency has the responsibility to consider it. This engagement process must be particularly robust

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for agencies such as the U.S. Army Corps of Engineers and FEMA whose missions are potentially significantly impacted by the EO.

The public engagement process used to develop the Final Guidelines was appropriate for the development of an overarching policy. The Sacramento Region appreciated the (1) 30-day extension granted for public comment, (2) public workshop held in the Sacramento Region, (3) summary of comments received and corresponding responses and revision recommended by the Mit-FLG, and, (4) specific changes made to the Final Guidelines in response to feedback provided by the Sacramento Region.

The Sacramento Region seeks to continue or increase this type of engagement as the process transitions into the development of agency-level implementing procedures for the U.S. Army Corps of Engineers and the Federal Emergency Management Agency (FEMA). We anticipate that these procedures may have a significant impact on our region and request the opportunity to collaborate proactively with both agencies in order to develop procedures to which we can efficiently transition. Collaborative engagement with USACE and FEMA in developing implementing guidance is requested by the Sacramento region to coordinate and integrate regional efforts with proposed federal guidance for consistency and efficiency.

*For additional information, please contact Chris Worden, Vice President of Public Policy*

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