



**US Army Corps  
of Engineers®**

# ENGINEERING AND CONSTRUCTION BULLETIN

**No. 2008-26**

**Issuing Office: CECW-CE**

**Issued: 14 August 2008**

**Subject: Architect-Engineer Responsibility Management Program (AERMP)**

**Applicability:** Information

1. HQ, USACE Engineering and Construction (E&C) has received and analyzed the FY07 AERMP reports from all MSCs and Centers, which are required by Chapter 7 of [EP 715-1-7](#), Architect- Engineer Contracting. The following observations are made for your information and use:
  - a. The total amount of A-E liability settlements received in FY07 was \$3,141,813. The A-E liability settlements received in FY06 was \$1,657,790 and the settlement average for the previous ten years (1997-2006) is \$1,381,800.
  - b. Thirteen cases were settled in FY07. The total negotiated settlement for the 13 cases was \$3,141,813, which was 64% of the original computed damages of \$4,879,864. This is a remarkable negotiated settlement increase over the ten year historical average of 42%.
  - c. Investigation and Recovery (I&R) Costs were reported for eleven of the thirteen settled cases. For these cases, eleven cents in I&R costs were spent for each dollar of A-E settlement. Since FY97 when the I&R cost data was initially collected, 13 cents in I&R Costs were spent for each dollar of A-E settlement. Even though the I&R Costs continues to show improvement historically, it must be noted that the FY07 I&R Costs to settlement receipts increased to 11% from the FY06 low on I&R Costs to settlement receipts of 7%. Reasonableness in I&R costs are a part of the assessable damages and must continue to be tracked and reported for A-E liability cases.
  - d. Thirty liability cases with damages of \$3,239,156 were carried over into FY08, and in reviewing the history, reduction in the backlog of cases is not being reduced satisfactorily. We continue to have an important responsibility to our customers to pursue A-E liability cases in a timely manner and you are strongly urged to initiate ways to reduce the backlog of cases.
2. As an overall assessment of the FY07 Reports, greater attention must be paid to the elements and incurrence of I&R Costs and to settling the cases with minimal carry-

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overs for FY08. We trust that you have already improved the settlement performance since the FY08 Reports are due to CECW-CE by November 2008. Keep in mind the following points that must be considered when reporting:

- a. All design deficiencies are not A-E liability cases. It is only a case, if the A-E firm is liable for the damages and USACE decides to pursue recovery.
  - b. The reports must include I&R Costs, which are part of the total assessable damages. It is also important to track I&R Costs as a measure of the effectiveness of the AERMP Program in each command.
3. Point of contact for subject ECB is Bunny Greenhouse, 202-761-7169.

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