

**APPENDIX D**  
**EO 11988 Eight-Step**  
**Decision Making Process**

**Security Operations Control Center Facility Construction**  
**Port of Albany, Albany County, NY**  
**2009-PU-T9-K018 IJ#3**  
**Executive Order 11988 – Floodplain Management**  
**Eight-Step Decision Making Process**

Executive Order 11988 (Floodplain Management) requires federal agencies “to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of the floodplain and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.” FEMA’s implementing regulations are at 44 CFR Part 9, which includes an eight step decision making process for compliance with this part. This eight step process is applied to the proposed Security Operations Center Control Facility Construction Project (hereinafter referred to as the Proposed Project). The existing project area is located within the 100-year floodplain of the Hudson River in Albany, Albany County, New York. The steps in the decision making process are as follows:

***Step 1 Determine if the proposed action is located in the Base Floodplain.***

The proposed project is located within the 100-Year Floodplain and is designated as Zone A12, which is within the Special Flood Hazard Area (SFHA), as illustrated on the National Flood Insurance Program’s Flood Insurance Rate Map (Community-Panel Number 360001009C). The Base Flood Elevation (BFE) is 20 feet (NGVD 1929).

***Step 2 Early public notice (Preliminary Notice)***

A public notice concerning the proposed project will be published in the Albany Times Union newspaper. The notice will serve as Step 2 and also as Notice of Availability of the draft National Environmental Policy Act, Environmental Assessment (EA) document, for public review and comment. The EA will be made available for a 15-day public review and comment period.

***Step 3 Identify and evaluate alternatives to locating in the base floodplain.***

The project purpose and need would not be met with the No Action alternative. The No Action Alternative would not bring the Port into compliance with security standards.

There are no practicable alternatives to locating the proposed security operations center outside the SFHA to address floodplain management and EO 11988 compliance. The security operations must be located at the entrance gate to fulfill the project’s purpose and function in the design capacity. The new non-residential facility must be alternatively floodproofed or elevated to at/above the Base Flood Elevation to comply with 44CFRPart9, the National Flood Insurance Program and any local or state requirements for freeboard (additional elevation requirements).

FEMA reviewed the definitions of a critical facility and critical action with the Albany Port District Commission. The Port District Commission determined that their facility was not a critical facility; therefore, alternative analysis would be focused on the 100-Year Floodplain, not the added 500-Year Floodplain elevation requirements for critical facilities.

***Step 4 Identify impacts of proposed action associated with occupancy or modification of the floodplain.***

The proposed project will not adversely impact natural habitat values or other functions of the floodplain. The site is already developed. Similarly, the proposed project would not promote further development, since the site is already used for marine industrial purposes. The proposed project is not anticipated to induce flooding on any other downstream or upstream facilities or properties. The new 40ft x 100ft facility replaces an existing modular office structure that may not be elevated to the BFE for the 100-Year Floodplain. The proposed project would remove existing structures from the floodplain as part of the site demolition plan. The risk of future damage to these existing facilities would be eliminated with their demolition. The new security facility would be built to codes and standards, as well as floodplain management requirements; therefore, floodplain occupancy of an existing function would be minimized.

The proposed project would invest federal and non-federal monies into construction of a new facility within the SFHA; and, therefore the facility would be at risk to flood damage.

The proposed project benefits the public good through enhanced safety of port operations.

***Step 5 Design or modify the proposed action to minimize threats to life and property and preserve its natural and beneficial floodplain values.***

In order to minimize risk of future floodplain damage to the new structure and to comply with EO 11988 and the National Flood Insurance Program, the non-residential facility must be elevated or flood-proofed to at or above the 100-year Base Flood Elevation. Utilizing 1984 benchmarks, the existing ground elevations at the proposed building corners are between 15.5ft and 16.9ft NGVD. Therefore, the first floor elevation, and above ground utilities, must be elevated to at/above 20ft NGVD. The Albany Port District Commission is responsible to obtain a permit/authorization for construction from a local floodplain manager through the building permit or other identified local process for approval. Additional elevation requirements (freeboard) may require elevation/flood-proof to elevation above the BFE. The sub-grantee must submit a completed Elevation Certificate of Flood Proofing Certificate to either the local or the state floodplain manager, when the facility is elevated or flood-proofed.

The stormwater runoff at the site would be collected by existing drainage infrastructure for discharge to the River. Best Management Practices would be used during construction for sedimentation and erosion control, and to handle any contaminated soil or groundwater in accordance with local, state and federal laws, regulations and executive orders.

***Step 6 Re-evaluate the proposed action.***

The proposed project will not aggravate the current flood hazard because the facilities would not impede or redirect flood flows. The project will not disrupt floodplain values because it will not change water levels in the floodplain, and will not reduce habitat in the floodplain. Therefore, it is still practicable to construct the proposed project within the floodplain. Alternatives consisting of locating the project outside the floodplain or taking “no action” are not practicable. The facility must be located at the Port entrance gate. The public good of the project’s purpose and function outweighs the risk of floodplain occupancy.

### ***Step 7 Findings and Public Explanation (Final Notification)***

After evaluating alternatives, including impacts and minimization opportunities, FEMA and the grantee/sub-grantee determined that the proposed project is the most practical alternative. It is our determination that there is no practicable alternative to locating the proposed project outside the 100-Year Floodplain of the Hudson River because:

1. The proposed facility must be located at the Port entrance gate to function.
2. A “no action” plan would not resolve security vulnerabilities.

After Step 2 and the early 15-day public review and comment period, it is anticipated that FEMA will issue a Finding of No Significant Impact (FONSI). The public will have a second opportunity to comment on the FONSI and proposed action to be located in the floodplain. A second 15-day public review and comment period will be accommodated prior to approval of the grant for obligation. If any substantive comments are received from the public, FEMA will address in a Final Environmental Assessment or other supplemental documentation.

### ***Step 8 Implement the action***

The proposed project will be constructed in accordance with applicable floodplain development requirements.