

United States Senate

WASHINGTON, DC 20510

March 17, 2022

The Honorable Michael L. Connor
Assistant Secretary of the Army (Civil Works)
108 Army Pentagon
Washington, D.C. 20310-0108

Dear Secretary Connor:

We are writing to express our concerns with your *Federal Register* notice, “Notice of Solicitation of Applications for Stakeholder Representative Members of the Committee on Levee Safety (Committee)” [FR Doc. 2022–01159], posted on January 20, 2022.

In seeking to reinstitute the Committee to advise the U.S. Army Corps of Engineers (Corps) and the Federal Emergency Management Agency (FEMA) on various aspects of the National Levee Safety Program, the solicitation cites that the Committee “will be established under the authority of 33 U.S.C. 3302.” The Committee described in your solicitation exceeds that authority. We note that the authority under 33 U.S.C. 3302:

- Calls for establishment of the Committee with essentially one duty or function: “*to submit to the Secretary and Congress an annual report regarding the effectiveness of the levee safety initiative in accordance with section 3303b of Title 33,*” with each report to be comprised of information “*that describes the independent recommendations of the committee for the implementation of the levee safety initiative.*”
- Does not establish a Federal advisory committee for the Corps’ Levee Safety Program even though the language of 3303b provided that the annual report may provide recommendations to Congress. The exemption of the Committee from the Federal Advisory Committee Act provides additional evidence that the Committee is not intended to be an agency advisory committee.
- Does not authorize the Committee to be a FEMA advisory committee.

Explaining the scope of advice is especially critical in the case of FEMA, which has no direct role in the implementation or administration of Corps levee safety activities. Congress has granted FEMA authority to carry out floodplain management in cooperation with the local entities responsible for enforcing those requirements. If FEMA requires advice on these or other matters, then FEMA should establish and fund its own advisory committee. Further, the following solicitation language acts in opposition to the clear intent of Congress and the statutory requirements to provide for independent Committee report recommendations:

"After each time the Committee provides recommendations, USACE and FEMA will inform the Committee within a reasonable amount of time whether the recommendations were incorporated or reasons the recommendations were not incorporated."

Congress has demonstrated its willingness to act in a bipartisan manner on issues related to improving levee reliability and seeks recommendations from the Committee that are objective and unfettered by Federal agencies, making this solicitation even more disconcerting. In light of these concerns and in an effort to better understand the rationale and intent behind expanding the Levee Safety Program, we ask that you withdraw the solicitation, and provide us with a briefing on the matter.

We look forward to your response on this important matter.

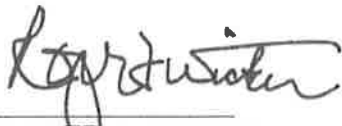
Sincerely,



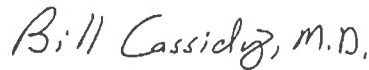
CINDY HYDE-SMITH
United States Senator



JOHN BOOZMAN
United States Senator



ROGER F. WICKER
United States Senator



BILL CASSIDY
United States Senator