

WRRDA 2014, Sec 1047 (d) Volunteer Program Update



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Teleconference Webcast: WRRDA 2014, Sec 1047 (d) Volunteer Program Implementation Guidance

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Volunteer Program Authority

- **33 USC 569c (Public Law 98-63) in 1983, Amended by WRRDA 2014 Sec 1047(d):** Gave the Chief of Engineers the authority to accept the services of volunteers and provide for their incidental expenses, **including expenses relating to uniforms, transportation, lodging, and the subsistence of those volunteers** to carry out any activity of the Corps except policy making, law or regulatory enforcement.
- **ER/EP 1130-2-500**, Chapter 10 Corps of Engineers Volunteer Program. Superseded by 12 August 2016 “Implementation Guidance for Section 1047 (d) Services of Volunteers, of the Water Resources and Reform Development Act (WRRDA) of 2014, Public Law 113-121”





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U.S. ARMY CORPS OF ENGINEERS
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AUG 12 2016

MEMORANDUM FOR COMMANDERS, MAJOR SUBORDINATE COMMANDS AND
DISTRICT COMMANDS, CHIEFS, OPERATIONS DIVISIONS

SUBJECT: Implementation Guidance for Section 1047 (d) Services of Volunteers, of
the Water Resources and Reform Development Act (WRRDA) of 2014, Public Law
113-121

1. Purpose. The purpose of this memorandum is to provide implementation guidance for Section 1047(d) of WRRDA 2014. Section 1047(d), "Services of Volunteers," amends Chapter IV of title I of Public Law 98-63 (33 U.S.C § 569c) to expand the definition of "incidental expenses" to include expenses relating to uniforms, transportation, lodging, and the subsistence of volunteers. Copies of WRRDA 2014 Section 1047 (d) and P.L. 98-63 are enclosed.

2. References.

- a. Water Resources and Reform Development Act of 2014, Section 1047(d), PL 113-121.
- b. Public Law 98-63, Section 101 (33 U.S.C. § 569c), Chapter IV of Title I, Services of Volunteers, 1983.
- c. U.S. Army Corps of Engineers Engineer Regulation (ER) & Engineer Pamphlet (EP) 1130-2-500, Chapter 10, The Corps of Engineers Volunteer Program, as revised 13 March 2013.
- d. Homeland Security Presidential Directive 12 (HSPD-12), Policy for a Common Identification Standard for Federal Employees and Contractors.

3. This memorandum supersedes and replaces the ER and EP Chapter 10 in Ref. 2.c. No other chapters of ER & EP 1130-2-500 are affected by this policy memorandum and all other chapters remain in effect. These policy changes to the Volunteer Program are effective immediately and will be incorporated in the referenced ER and EP when they are revised.

4. Applicability. This memorandum applies to all USACE commands having responsibilities for civil works functions.



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What Changed in the Program?

- No 'new' authority from WRRDA amendment. Provided clarification on what the term "incidental expenses" may include that USACE can pay for with appropriated funds.
- Prior to the new law, too much gray area... open to interpretation
- Used this opportunity to update all of the language in the ER and EP since the last revision to the policy on 13 March 2013
 - ▶ Combined ER/EP into one policy memo
 - ▶ Changed background check requirements
 - ▶ Further clarification on volunteer training requirements/exemptions
 - ▶ Removed prison labor programs from the volunteer program
 - ▶ Addressed partner volunteers
 - ▶ Removed requirement for surety bonds
 - ▶ Changed paperwork requirement for minor volunteers



Prison Labor

- Volunteer authority does not include use of civilian inmate labor from the Federal Bureau of Prisons or from State or County Correctional Systems
- Federal prisons: Federal prison labor is accepted under the authority of 18 USC 4125(a) and the requirements of AR 210-35, Civilian Inmate Labor Program
- State/County correctional facilities: Services can be accepted under 33 USC 2325, Sec. 203 Contributions Program authority
 - ▶ Must follow procedures and requirements of AR 210-35 (Requires an Inmate Labor Plan and MOA)
 - ▶ Inmates do not sign a OF 301a volunteer services agreement form



Hosted Workers

- Individuals from the private sector or state and local government agencies, whose employers are facilitating the donation of their employees' services to the Corps while still keeping them on their payroll (hosted workers), may be volunteers, provided the services they render are truly voluntary.
- Army General Counsel provided clarification that hosted workers can only be short term or for a specific event.
- Services performed by the individuals cannot be a direct extension of their employment duties or provide a direct benefit to their employer.
- Cannot accept services of a full time, long term volunteer paid by another entity under the volunteer authority, but may under Challenge Partnership authority.
- Updating Challenge Partnership Agreement template to adjust for full-time paid volunteers.



National Guard

- National Guard units that desire to perform training exercises that benefit USACE properties cannot be considered “volunteers” for purposes of 33 U.S.C. § 569c
- 13 August 2015 memo “CECC-G Bulletin No. 15-03, Follow-up Guidance on the Use of "Troop Labor" at Corps Civil Works Projects” addressed this topic
- May accept services from 'State-activated' National Guard units operating as State entities in a Title 32 status for the limited purposes described in section 203 of WRDA 1992 (Contributions authority).
- Not applicable to Active, Reserve or federally activated National Guard units. Need new Army policy for this to be allowed.
- Developing guidance under the Contributions authority to accept State-activated units.



Children Volunteers

- Children under the age of eighteen years may be volunteers, provided they have the written consent of their parent or guardian on the OF 301a Volunteer Service Agreement form.
- If children are volunteering as part of a group, the leader must provide a complete list of group participants and separate OF 301a agreements signed by the parents/guardians for all participants under the age of eighteen.
- Used to accept the form of another organization (school, youth group, Boy Scouts, etc)
- Army General Counsel ruled that signing another organization's consent form is not sufficient to protect USACE.



Background Checks

- **Required** for any volunteer in one or more of the following scenarios:
 - Individuals who volunteer for more than **180** calendar days in a year
 - Positions that require wearing the Corps volunteer clothing/name tag who work independently of Corps personnel
 - **Positions that work independently of USACE personnel that are regularly in contact with children under 18 without a parent or guardian present.** (*Ref: Army Directive AD 2014-23)
 - Positions that require access to government files and records
 - Positions that require the collection or handling of fees
 - Positions that require access to a Corps networked computer
 - **Background checks are effective for one year** (*Ref: HQ Security Office)
 - **Checks can be shared between districts/offices for same vol**



Background Checks

- VOLAC background checks: National Agency Check with Inquiries (NACI) **valid for a lifetime as long as a two-year break in service does not occur at any point.** (**Ref: Chief of Security and Law Enforcement. Lifetime due to higher level of background check through the NACI versus the NCIC III level check for non-VOLAC*)
- May be conducted, but are **not required** for any of the following:
 - Individuals who volunteer for one-time events
 - Individuals who volunteer for less than **180** days and who do not meet any of the scenarios as described above
 - Volunteers who only work in proximity and direct supervision by a Corps employee



Surety Bonds

- Deleted the section requiring surety bonds for volunteers collecting fees and payment for the bonds by Corps appropriated funds
- Volunteer fee collection and surety bond provisions of ER 1130-2-500, Chapter 10, updated in 2013, were derived from section 4(k) of the Land and Water Conservation Fund Act (LWCFA) (16 U.S.C. 460I-6a(k)), which Congress repealed in 2014. Prior to its repeal, section 4(k) provided:
 - ▶ Volunteers may sell permits and collect fees with adequate training
 - ▶ A surety bond is required for any volunteer performing these services
 - ▶ Appropriated funds may be used to pay for the bonds
- When the LWCFA was repealed, the Corps was no longer required to bond volunteers, and also had no authority to pay for bonds. This did not impact the use of bonds for contractors.
- Bottom line: The Corps can continue to use volunteers to collect fees under the authority of 33 USC 569c.



Surety Bonds (cont.)

- Volunteers need to go through the same fee collection training as a government employee and must sign a statement on the volunteer agreement that states the person accepts the risk and liability of handling government funds.
- Volunteers may pay for their own bonds, but it is not a requirement.
- Follows the general government policy of self-insuring against the risk of loss. (Forest Service took this approach sometime around 2008.)
- Comment from Army General Counsel: Surety bonds are normally used to protect against default of a contractual obligation. It is inconsistent for USACE to require volunteers to obtain a surety bond when USACE employees are not required to do so.
- Updated 30 Nov 2015 Recreation Use Fee EC 1130-2-550 to reflect this change for volunteers selling passes/collecting \$.



Volunteer Transportation

- Reimbursement for transportation expenses to and from a volunteer's residence may be authorized if **within a reasonable commute**
- **Reimbursement for POV mileage will not exceed rates identified in the JTR.**
- Long distance travel may be reimbursed in cases where it can be shown that the services of the volunteer are of exceptional value.
- Invitational travel orders approved at the District level shall be used for long distance travel.
- Long distance reimbursement will not exceed the amount identified in the JTR
- **Transportation may include any mode recognized by the JTR, including POV, public transportation, trains, and airplanes.**



Food/Beverage Purchases

- Food and beverages may be provided to volunteers only when such subsistence is incidental to the rendering of volunteer services.
- **Volunteers may be reimbursed for meals during the period of volunteer work, which shall not exceed the GSA schedule for government per diem.**
- Meals and beverages provided for a recognition event are not incidental to the rendering of volunteer services, and are therefore impermissible.
- Any food or beverages purchased under this policy must be reviewed and approved by the District Resource Management Office (RM) and documented (i.e. email or Memorandum for Record (MFR) by telephone).



Volunteer Lodging



- Volunteers may be provided modest lodging at the project where their service occurs and not be required to pay a user fee.
- Districts may use appropriated funds to rent, purchase, or construct volunteer accommodations.
- Permissible lodging may include mobile homes, RVs, campers, cabins, hotel rooms, apartments, former government housing, or campsites.
- Accommodations should be noted on the volunteer agreement.



Volunteer Clothing

- Clothing items may be provided if essential to a volunteer's specified duties, such as in cases where clothing items are needed for safety reasons or when volunteers must be easily identifiable to Corps employees or the public, such as park hosts, visitor center staff, etc.
- Official Corps volunteer clothing items **must be purchased from the Corps uniform contract provider. Local purchase of similar items to the contact in different colors is not authorized.**
- For volunteers performing maintenance duties, T-shirts may be ordered from a local vendor with the Corps logo and "Volunteer", but **must be in colors similar to those offered under the uniform contract, with the exception of safety colored shirts and reflective materials.**



Volunteer Clothing

Available from VF Imagewear:

- Vests: red
- Sweatshirt jacket: red
- Polo shirt: tan, white or red
- Ball cap: beige/black
- Ball cap- summer: khaki or red
- Name Plate
- Patch (by request to uniform committee)



To order:

Go to the Website:

<https://www.vfsolutions.com/lma/>

- **Account Number:** UAA code in CAPS (or project code - typically 5-6 letters total, with 3 letters for district and 2-3 letters for project.)
- **Example:** LRNOLD is the code for Old Hickory Lake in the Nashville District.
- **Password:** UAA code in CAPS (same as above Account #).
- **Click on "Login"- "Continue" - "Volunteer Program" is at the bottom left.**
- Use the government VISA credit card to purchase.



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Volunteer Appreciation/Recognition

- Removed note about awards donated by Friends groups, cooperating associations, or other partners to recognize outstanding volunteers. Army Counsel said this appeared to encourage inappropriate solicitation from non-federal entities. *(Still allowable for partners to donate awards, but not specifically mentioned in the guidance.)*
- Volunteers may be eligible for DoD Public Service Awards which are listed in Army Regulation AR 608-1, Army Community Service, Appendix I.
- Individual and family/couple volunteers are now eligible for the National Volunteer Award and Volunteer Excellence Coins, sponsored by the Corps Foundation
- Corps annual day use pass available for 100 hours of service; America the Beautiful Pass for 250 hours of service



Other Changes

- Training: Volunteers not required to complete the same mandatory training that USACE employees must annually complete, unless necessary for the volunteer position, such as Defensive Driving or Boat Operator License training to operate a government vehicle or vessel
 - ▶ Added this clarification to address online training such as active shooter, PII, OpSEC, Human Trafficking, SHARP, TARP, NO Fear, etc. Not necessary for volunteers.
- VOLAC Procedures: Removed the detailed list of procedures out of the policy. Will keep procedures updated on the NRM Gateway Background Check/Volunteer Computer Access page:
<http://corpslakes.usace.army.mil/employees/volunteer/check.cfm>
- List of unacceptable crimes: Expanded to include persons who have been convicted of a sexual crime, arson, sale or intent to distribute illegal drugs, or an organized crime figure.



Other Changes

- Volunteer vehicle accidents: Standard procedures used to investigate and/or adjudicate incidents involving USACE employees should be used, when appropriate, to investigate and/or adjudicate similar incidents arising from voluntary services provided under 33 U.S.C. § 569c. *(Added this language to mirror AR 608-1, para. 5-10e)*
- Immunizations: Volunteers performing duties for which federal employees would be provided immunizations, may be provided the same immunizations paid for or reimbursed by the government.
- EAP Program: On a case by case basis, Federal Occupational Health may offer courtesy EAP or CISM services to volunteers in the event of an emergency, including traumatic, distressing events during the volunteer's duties. *(Approved by U.S. Department of Health and Human Services Federal Occupational Health Division)*



Other Changes

- OF 301a required form: Section on volunteer benefits and protections states that volunteers should sign an OF 301a. We have made this form a requirement. However, Army Counsel stated “The failure of the volunteer to sign the OF 301a will not necessarily preclude the volunteer from claiming the benefits and protections of 5 USC, Ch 81 and/or 28 USC, Ch 171.” *(But the volunteers will be in a much better situation if they have signed the OF 301a, to ensure their protections.)*
- Partner organization volunteers: Encourage volunteers to sign OF 301a, but not a requirement if the partnership agreement requires liability coverage by the partner.
- Job Hazard Analysis: Now a required attachment to OF 301a, per Army General Counsel. There is not a standard form. Examples can be found on the Gateway.



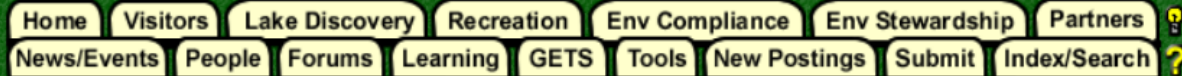
Other Changes

- OF 301b new form: Added to the guidance. Note: this form is only to be used for adult volunteers, as it requires a signature of each group participant. It is not a stand-alone document, and must be attached to the OF 301a form that describes the volunteers' duties.
- Children under the age of 18 require their own OF 301a form signed by a parent/guardian. The group leader of children only needs to provide a list of children along with the OF 301a forms for each.
- Expiration date of Volunteer agreements: Remain in effect until terminated, but should be reviewed periodically and amended or rewritten for accuracy as projects, requirements, reimbursements, and other elements of a volunteer's service may change. The agreement for volunteer services may be terminated at any time by the volunteer coordinator or the volunteer.



Resources: NRM Gateway

<http://corpslakes.usace.army.mil/employees/volunteer/volunteer.cfm>



Volunteer Program

[Headquarters POC](#)

Corps projects offer many volunteer opportunities in recreation and natural resources management. Volunteers can serve as park and campground hosts, staff visitor centers, conduct programs, clean shorelines, restore fish and wildlife habitat, maintain park trails and facilities, and more. Corps personnel can recruit their own volunteers or get help from the [Volunteer Clearinghouse](#), www.corpslakes.us/volunteer, (1-800-VOL-TEER or 1-800-865-8337), a national information center for people interested in volunteering at Corps projects across the country. Corps offices that have upcoming projects or events that volunteers can assist with may use the Volunteer Clearinghouse to [submit their volunteer projects on-line](#).

- [Policy & Procedures](#)
- [Volunteer Forms](#)
- [Program History](#)
- [Training](#)
- [Volunteer Clearinghouse](#)
- [Related Sites](#)
- [National Public Lands Day](#)
- [Division & District POCs](#) 
- [National Volunteer Awards](#)
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Questions?

