**SAMPLE COOPERATIVE AGREEMENT**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| AGREEMENT NUMBER: District/Center-XX-2-XXXX | | | EFFECTIVE DATE: XX Month XXXX | |
| ISSUED BY: | | | ISSUED TO: | |
| The United States of America  US Army Corps of Engineers, XXXX District  Street Address  City, State, Zip | | | [Recipient Name and Address] | |
| CONCERNING: | | | | |
| AUTHORIZED BY:       Accounting Citation: | | | | |
| CFDA NUMBER: | | DUNS NUMBER: | | |
| RECIPIENT TYPE: Government Entity Non-Profit Organization Hospital  University  Indian Tribe  Other (specify): | | | | |
| AMOUNT: $ | | COST SHARE: | | |
| PERIOD OF PERFORMANCE: | |  | | |
| ADMINISTERED BY: Name (XXX) XXX-XXXX  Email address | | | | |
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| NOTICE OF ELECTRONIC FUNDS TRANSFER (EFT): Pursuant to 32 C.F.R. § 22.810, it is a Governmentwide requirement to use EFT in the payment of any grant or cooperative  agreement for which an application or proposal was submitted or renewed on or after 26 July 1996, unless the recipient has obtained a waiver by submitting to the head of the pertinent  Federal agency a certification that it has neither an account with a financial institution nor an authorized payment agent. To be paid, recipient must submit a Payment Information Form  (Standard Form SF-3881) to the responsible DoD payment office. | | | | |
| IN WITNESS WHEREOF, the parties by their authorized representatives execute this Cooperative Agreement and agree to  the terms and conditions contained herein, all assurances and certifications made in the application, and all applicable  federal statutes, regulations, and guidelines. The Recipient agrees to administer the funded program in accordance with  the approved application and budget(s), supporting documents, and other representations made in support of the approved  application. | | | | |
| UNITED STATES OF AMERICA (SIGNATURE OF GRANTS OFFICER) | | | | |
| SIGNATURE OF RECIPIENT DATE  NAME AND TITLE OF SIGNATORY | | | | |

1. **Administrative Information**
   1. Parties to the Agreement

This agreement is entered into between the US Army Corps of Engineers, \_\_\_\_\_\_\_\_ District, hereinafter referred to as GOVERNMENT, and[Enter full legal name of the recipient entity], hereinafter referred to as RECIPIENT. The parties to this agreement act in their independent capacities in their performance of their respective functions under this agreement and neither party is to be considered the officer, agent, or employee of the other.

* 1. Administrative Personnel
     1. Government Representatives:

Government Project Manager:

[Name, Title]

USACE, \_\_\_\_\_ District Tel: xxx-xxx-xxxx

ATTN: CEXXX-XX-XX Fax: xxx-xxx-xxxx

Street Address E-mail: [email]

City, State, Zip

Agreement Administrator:

[Name, Title]

USACE, \_\_\_\_\_ District Tel: xxx-xxx-xxxx

ATTN: CEXXX-XX-XX Fax: xxx-xxx-xxxx

Street Address E-mail: [email]

City, State, Zip

Grants Officer:

[Name, Title]

USACE, \_\_\_\_\_ District Tel: xxx-xxx-xxxx

ATTN: CEXXX-XX-XX Fax: xxx-xxx-xxxx

Street Address E-mail: [email]

City, State, Zip

* + 1. Recipient Representatives:

[Enter Recipient Representatives]

Should include the signatory authority and an administrative contact.

* 1. Administrative Requirements and Order of Precedence
     1. Governing Regulations: This agreement will be administered in accordance with, and

recipients shall comply with, the applicable requirements of the Office of Management and

Budget Grant and Agreement Regulations, Title 2 Code of Federal Regulations (C.F.R.)

Subtitle A, including Title 2 C.F.R. Part 200 "Uniform Administrative Requirements, Cost

Principles, and Audit Requirements for Federal Awards"; Department of Defense Grant and

Agreement Regulatory System (DoDGARS), Title 2, C.F.R. Chapter XI; and Title 32, C.F.R. Chapter I, Subchapter C except Parts 32 and 33.

* + 1. Order of Precedence: In the event of a conflict between the terms of this agreement and

other governing documents, the conflict shall be resolved by giving precedence in

descending order as follows: (1) The OMB regulations and the DoDGAR; (2) the articles

of this agreement; (3) the attachments to this agreement, if any.

1. **Programmatic Requirements**
   1. Scope of the Agreement

The Government and the Recipient are bound to each other by a duty of good faith and best effort to achieve the goals of the agreement. This agreement is not intended to be, nor shall it be construed as, by implication or otherwise, a partnership, a corporation, or other business organization.

[Enter Statement of Work (SOW)/Statement of Objectives (SOO)]

* 1. Performance Reports

Recipient shall submit to the Agreement Administrator progress reports on a quarterly (can be

adjusted no less than quarterly and no more than annually) basis utilizing the form included in

Appendix A of this agreement. Reports are due no later than 30 days following the end of each

reporting period. A final performance progress report shall be submitted within 90 days after the

expiration date of the award.

* 1. Modifications
     1. Modifications to this agreement may be proposed by either party. But neither party shall implement a change until the change has been negotiated and approved by the Government’s Grants Officer. Change proposals shall be submitted in writing and shall detail the technical, schedule, and financial impacts of the proposed modification. Only the Grants Officer has the authority to act on behalf of the Government to change this agreement.
     2. Revision of budget/program plans: Recipient shall request prior approval for plan changes in accordance with 2 C.F.R. § 200.308.
     3. The Grants Officer may unilaterally issue modifications for minor or administrative matters, such as changes in key personnel, paying office, etc.
  2. Subawards
     1. The Recipient shall apply to each subaward the administrative requirements of the

DoDGAR applicable to the particular type of sub recipient. 2 C.F.R. Part 200 shall be

applied to awards to universities, hospitals, and other non-profit organizations included in

the definition of “recipient” in part 32 of the DoDGARs, as well as States, local

governments, and Indian tribal governments.

* + 1. Recipients awarding sub-awards under this agreement shall assure that sub-awards contain, at a minimum, the applicable provisions in Appendix B to DoDGARS Part 22 and Appendix A to DoDGARS.
  1. Procurement

The Recipient’s systems for acquiring goods and services under this agreement shall comply

with 2 C.F.R. §§ 200.317 to 200.326.

1. **Period of Performance**
   1. Period of Performance of Agreement

The period of performance of this cooperative agreement is [enter start and end dates]. If the

parties agree, the period of performance for the agreement may be extended if funds are

available and the extension would not exceed any applicable limitations. Any extension shall be

formalized through modification of the agreement by the Grants Officer and the Recipient

* 1. Unsatisfactory Performance/Non-Compliance with Award Provisions

Failure to perform work in accordance with the terms of the award or failure to comply with any

or all of the provisions of the award may result in designation of the Recipient as high risk and

assignment of special award conditions or other actions such as withholding payment, requiring

performance or financial audits, suspension of award, termination, or any other action provided

by law.

* 1. Termination
     1. The Grants Officer may terminate this agreement by written notice to the Recipient upon a finding that the Recipient has failed to comply with the material provisions of this agreement.
     2. This agreement may be terminated by either party upon written notice to the other party.

Such notice shall be preceded by consultation between the parties. Such notice must be

issued at least 30 days prior to the requested effective date. If the Recipient requests to

terminate the agreement, written notification must be provided to the awarding agency

stating the reasons for the termination, the effective date, and in the case of partial

termination, the portion to be terminated. If termination is requested before work is

completed and the Grants Officer determines that the reduced or modified portion of the

award will not accomplish the purpose for which the award was made, the Grants Officer

may terminate the award in its entirety.

* + 1. The Government and Recipient will negotiate in good faith an equitable adjustment for

work performed toward accomplishment of the terminated program goals. The

Government will allow full credit to the Recipient for the Government share of the

obligations properly incurred by the Recipient prior to termination and those noncancelable

obligations that remain after termination.

* + 1. If the agreement is incrementally funded, it may be terminated in the absence of additional funding.
  1. Closeout Procedures

Closeout, subsequent adjustments, continuing responsibilities, and collection of amounts due are subject to requirements at 2 C.F.R. §§ 200.344 and 200.345.

1. **Financial Matters**
   1. Method of Payment
      1. The Government will reimburse Recipient up to the negotiated amount for performance in

conformance with the terms of this cost-reimbursable agreement. The Government is not

liable for any expenditure in excess of this amount unless agreed to by modification of this

agreement. All obligations are subject to the availability of appropriations from Congress.

* + 1. Payments will be made on a reimbursable basis for allowable, allocable and reasonable

costs incurred. Recipient shall submit a “Request for Advance or Reimbursement” (SF-

270) [SF-271 may be used for construction] along with other required documentation to the

Government’s Agreement Administrator (see paragraph 1.2.1) no more frequently than

monthly.

The SF-270 should be submitted to XXXXX@usace.army.mil. Invoices submitted by email

must be formatted to print on Letter (8 ½ x 11”) paper. Please attach a single PDF

document with the SF-270 as the FIRST page. All information for processing the payment

must be included in the attachment - not the body of the email. Subject line of the email

must reference the cooperative agreement/task order number. Only ONE invoice may be

submitted per email.

* 1. Cost Principles

Cost principles for this agreement are governed by 2 C.F.R. Part 200, Subpart E.

* 1. Standards for Financial Management Systems

The Recipient shall establish or use existing financial systems that comply with Generally

Accepted Accounting Principles and with 2 C.F.R. §§ 200.302 and 200.303.

* 1. Audit
     1. Organization-wide or program-specific audits shall be performed in accordance with the

Single Audit Act Amendments of 1996, as implemented by 2 CFR §200 Subpart F “Audit

Requirements". Recipients that are subject to the provisions of 2 CFR Part 200 and that

expend $750,000 or more in a year in Federal awards shall have an audit conducted for

that year in accordance with the requirements contained in Subpart F. [In accordance with

15 CFR §14.26(c) and (d), for-profit hospitals, commercial, and other organizations not

covered by the audit provisions of 2 CFR 200 Subpart F that expend $750,000 or more on

a year in Federal funding, are required to have a program-specific audit performed at

conclusion of the project, but not less than once every five years].

The Recipient shall provide a copy of the auditor’s report to the Government’s Agreement

Administrator.4.4.3 Irregularities identified in an audit that involve funds disbursed under this

Cooperative Agreement or that raise concerns with compliance with governing standards or

otherwise are of concern to the Grants Officer may be the basis for a decision by the Grants

Officer to terminate the Cooperative Agreement, require the return to the Government of funds

paid to the recipient, require a new audit or the establishment of special funds control

procedures by the recipient, or any other action available by law to the Grants Officer.

* 1. Retention and Access to Records

Recipient’s financial records, supporting documents, statistical records and all other records

pertinent to this agreement shall be retained and access to these records by the Government

shall be permitted in accordance with 2 CFR §200.333.

* 1. Cost Sharing

* + 1. [Enter negotiated cost share - determined per cooperative agreement]
    2. The Recipient’s contributions may count as cost sharing only to the extent that they comply with the criteria at 2 C.F.R. § 200.306.
  1. Financial Reporting
     1. The Recipient shall submit a “Federal Financial Report” (SF-425) on a quarterly (can be

adjusted no less than quarterly and no more than annually) basis. Reports are due no later

than 30 days following the end of each reporting period. A final SF-425 shall be submitted

within 90 days after the expiration date of the award.

* + 1. Financial reports shall be submitted to the Government’s Agreement Administrator.

1. **Property Management**

The Recipient’s property management system shall comply with 2 C.F.R. §§ 200.310 to 200.316.

* 1. Real Property

Title for real property acquired under the cooperative agreement shall vest in the recipient. In

accordance with 2 C.F.R. § 200.311, only the estate necessary for the project purpose should be

acquired and the real property shall be used for the originally authorized purpose for as long as it

is needed. [The recipient shall obtain written approval by the Federal awarding agency for the

use of real property in other federally-sponsored projects when the recipient determines the

property is no longer needed for the purpose of the original project. (University, Hospital, Nonprofit, or For-Profit Entities ONLY)]. When real property is no longer needed for the originally

authorized purpose, the recipient shall request disposition instructions from the Government.

* 1. Equipment

Equipment purchased under the cooperative agreement shall vest with the recipient, and its use,

management, and disposition shall be in accordance with 2 C.F.R. § 200.313.

* 1. Supplies and Other Expendable Property

Title to supplies and other expendable property shall vest in the recipient. Disposition of

supplies in excess of $5000 shall be in accordance with 2 C.F.R. § 200.314. [The recipient shall

not use supplies acquired with Federal funds to provide services to non-Federal outside

organizations for a fee that is less than private companies charge for equivalent services, unless

specifically authorized by Federal statute as long as the Federal Government retains any interest

in the supplies (University, Hospital, Non-profit, or For-Profit ONLY)].

* 1. Intangible Property / Copyrights

The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to

reproduce, publish, or otherwise use, and to authorize others to use copyrighted work created

under this agreement for Federal Government purposes in accordance with 2 C.F.R. § 200.315.

* 1. Government Furnished Property

Title to federally owned property remains vested in the Federal Government. Federally furnished equipment is not-in-kind assistance.

* 1. Reporting Requirements

The following forms shall be utilized to meet 2 C.F.R. part 200 reporting requirements.

* + 1. SF-428 Tangible Personal Property Report
       1. SF-428 A – Annual Report (reporting Federally-owned property)
       2. SF-428 B – Final Report
       3. SF-428 C – Disposition Request
    2. RPSR – Real Property Status Report
       1. RPSP Attachment A – General Reporting
       2. RPSR Attachment B – Request to Acquire, Improve or Furnish
       3. RPSR Attachment C – Disposition Request
    3. Recipient shall submit an annual inventory report to the Government listing all federally owned property in their custody.

1. **Claims, Disputes, and Appeals**
   1. General

Parties shall communicate with one another in good faith and in a timely and cooperative

manner when raising issues under this Cooperative Agreement. Department of Defense policy

is to resolve issues through discussions and mutual agreement at the Grants Officer’s level,

either through unassisted negotiations or through a mutually agreeable means of Alternative

Dispute Resolutions, whenever possible.

* 1. Claims Resolution Process

When a claim cannot be resolved by the parties, the parties agree to use the procedures

identified in 32 C.F.R. § 22.815 as the administrative process to resolve claims, disputes and

appeals. Under 32 C.F.R. § 22.815, a recipient’s claim must: (1) be submitted in writing; (2)

specifying the nature and basis for the relief requested; and (3) include all data that supports the

claim. Claims by a DoD component to a recipient shall be the subject of a written decision by a

Grants Officer. Within 60 calendar days of receipt of a written claim, the Grants Officer shall

either: (1) prepare a written decision; or (2) notify the Recipient of a specific date when he or she

will render a written decision if more time is required to do so. The decision of the Grants Officer

is final. The recipient has the right to appeal the decision to the Grant Appeal Authority within 90

days of receiving the decision. Particulars concerning the appeal process are specified in

Department of Defense Directive 3210.06, 32 C.F.R. § 22.815(e), and Army Appeals Authority

AFARS § 5133.90 (Grant and Cooperative Agreement Claims, Disputes and Appeals).

* 1. Non-exclusivity Remedies

Nothing in this section is intended to limit the recipient’s right to any remedy under the law.

1. **Compliance with Laws**
   1. Applicable Federal Laws

By signing or accepting funds under this agreement, Recipient agrees that it will comply with all applicable federal, state and local laws, codes, regulations, rules and orders.

* 1. Certification Regarding Lobbying

A separate certification regarding lobbying must be submitted per 32 C.F.R. Part 28.

* 1. Award Provisions

By signing or accepting funds under this agreement, the recipient assures that it will comply with the applicable provisions of the following national policies on:

[Insert all that apply. Refer to 2 C.F.R. Part 200 for awards for universities, hospitals, other nonprofit organizations, States, local governments, and Indian tribal governments.]

* + 1. Nondiscrimination
    2. Live Organisms
    3. Debarment and Suspension
    4. Hatch Act
    5. Environmental Standards
    6. Drug-Free Workplace
    7. National Preservation
    8. Officials Not to Benefit
    9. Preference for US Flag Carriers
    10. Cargo Preferences
    11. Military Recruiters
    12. Relocation and Real Property Acquisition

1. **Indemnification**

To the extent permitted by applicable law, Recipient shall indemnify the Government against any

liability for damage to life or property arising from the actions or omissions of Recipient’s employees,

contractors, or agents. Such protection from damages may be provided by commercial insurance or

self-insurance. The Government shall be liable for its actions and omissions in accordance with the

Federal Tort Claims Act, as applicable, and other applicable Federal law.