



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

AUG 03 2016

CECW-P

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Guidance for Section 1031(b) of the Water Resources Reform and Development Act (WRRDA) of 2014 - Cooperative Agreements (CAs) With Indian Tribes

1. Section 1031 of WRRDA 2014 provides authority for the Secretary of the Army to enter into a cooperative agreement with an Indian Tribe (or a designated representative of an Indian Tribe) to carry out authorized activities of the Corps to protect fish, wildlife, water quality, and cultural resources (Encl 1). The Secretary delegated this authority to the Assistant Secretary of the Army (Civil Works) (ASA(CW)), and the ASA(CW) delegated this authority to the Director of Civil Works with the option to re-delegate this authority to division and district commanders. This memorandum does not further re-delegate this authority, but outlines our framework for approval of associated Memorandums of Agreements (MOA) and CAs.

2. At the discretion of the district commander, a district may evaluate its programs to protect fish, wildlife, water quality, and cultural resources that might benefit from such assistance. Once such activities are identified, the district shall utilize the following procedures for executing CAs under Section 1031(b):

a. The district will formulate an overarching draft MOA with each Tribe to set forth the proposed government-to-government relationship with the Tribe. The draft MOA will provide for subsidiary CAs to be executed with the Tribe, or with a designated representative of the Tribe. The draft MOA shall be forwarded for review by the division and then transmitted to the appropriate Regional Integration Team (RIT), with division recommendations, for review by Headquarters, U.S. Army Corps of Engineers Contracting and Chief Counsel and approval by the Director of Civil Works. The approved MOA will be transmitted to the district for execution, with a delegation of signature authority to the district commander.

b. The district will subsequently negotiate the CAs with the Tribe, to include a Scope of Work for each CA. The supporting file for each instrument awarded will document the basis for use of these authorities and the instrument's compliance with Department of Defense Directive 3210.06 (Defense Grant and Agreement Regulatory System (DG-ARS), 6 Feb 14). The supporting file also will include a record of legal review prior to solicitation and award. Furthermore, Office of Management and Budget (OMB) regulations in title 2, Part 200 of the Code of Federal Regulations (CFR) shall be followed where applicable. The applicability of the revised regulations in 2 CFR Part

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200 to new awards by Department of Defense entities is detailed in 2 CFR Part 1103, which should be reviewed carefully. It should be noted that Part 200 is intended to supersede, as described in 2 CFR 200.104 and 2 CFR 200.110, OMB guidance documents and regulations in: (i) OMB Circular A-87 (Cost Principles for State, Local and Tribal Governments); (ii) OMB Circular A-102 (Grant Awards and Cooperative Agreements with State and Local Governments); (iii) OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations); and (iv) other OMB guidance documents and regulations on cost principles and administrative requirements listed at 2 CFR 200.104.

c. The suggested CA format is enclosed with this guidance (Encl 2). Each such CA, with all attachments, shall be certified by the Office of Counsel of the district. A Grants Officer with the appropriate warrant is authorized to execute each CA after its approval.

3. The covered activities to protect fish, wildlife, water quality, and cultural resources are subject to normal budget policy and fiscal law requirements.

4. My point of contact is Ms. Lisa Morales, Senior Tribal Liaison, Future Directions Branch, who can be reached at, 202-761-7664



STEVEN L. STOCKTON, P.E.
Director of Civil Works

Encls

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SOUTHWESTERN DIVISION, CESWD

SEC. 1031. TRIBAL PARTNERSHIP PROGRAM.

(b) Cooperative Agreements With Indian Tribes.—The Secretary may enter into a cooperative agreement with an Indian tribe (or a designated representative of an Indian tribe) to carry out authorized activities of the Corps of Engineers to protect fish, wildlife, water quality, and cultural resources.

U.S. ARMY ENGINEER DISTRICT _____
[ADDRESS]

COOPERATIVE AGREEMENT

PURSUANT TO THE MEMORANDUM OF AGREEMENT EXECUTED BY THE [NAME OF TRIBE] AND THE U.S. ARMY CORPS OF ENGINEERS, [DISTRICT] ("THE PARTIES") IN 20XX, THE PARTIES EXECUTE THE FOLLOWING COOPERATIVE AGREEMENT:

1. Cooperative Agreement Title: "[NAME OF TRIBE]--- "To Carry Out Authorized Activities Of The Corps For The Protection Of [Select as appropriate one or more of the following: Fish; Wildlife; Water Quality; Cultural Resources]"

2. Cooperative Agreement Number: XXXXXX- XX-XX

3. Awardee's Name and Address:

4. Awardee's Tax Identification No: N/A

5. Program Director:

6. Statement of Work: The work to be accomplished is described in the Project Management Plan, attached hereto and made a part hereof.

7. Grant Officer: _____, U.S. Army Engineer District, _____

8. Grant Officer's Technical Representative: _____, U.S. Army Engineer District, _____.

9. Performance Period: _____ through _____.

10. A. Award Amount: \$ _____.

B. Funded Amount: \$ _____.

C. Funded Period: _____ through _____.

11. Appropriation Data:

12. Administered by: U.S. Army Engineer District, _____ [Address]. Certain administrative duties may be assigned to other governmental agencies.

13. Terms and Conditions: This cooperative agreement is subject to the General Terms and Conditions set forth in this agreement.

14. Options for Additional Periods of Performance:

15. Payments will be made pursuant to the "Award and Payments of Funds" provision at Article III of the MOA.

16. Miscellaneous Provisions [as applicable]:

a. Attachment A which contains additional terms and conditions of this cooperative agreement is attached hereto and made a part hereof.

b. Attachment B which contains certifications and representations is attached hereto and made a part hereof.

c. Notwithstanding the Awardee's technical and cost proposals, the Federal Government's obligation is restricted to the funding stated in item 10 above.

Recipient: _____

[Name]
[Title]

DATE: _____

[Name]
Grants Officer
U.S. Army Engineer District, _____

DATE: _____