



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

CECW-CO (1165)

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

SUBJECT: Policy Guidance for Section 8124, Reserve Component Training at Water Resources Development Projects, of the Water Resources Development Act of 2022 (WRDA 2022)

1. Purpose. The purpose of this memorandum is to provide policy guidance for Section 8124 of WRDA 2022. Section 8124 permits reserve components of the Armed Forces, in carrying out military training activities or otherwise fulfilling military training requirements, to perform services and furnish supplies in support of a water resources development project or program of the U.S. Army Corps of Engineers (USACE) without reimbursement. A copy of WRDA 2022 Section 8124 is enclosed (Enclosure 1).

2. References.

- a. Water Resources Development Act of 2022, Pub. L. 117-263, Div. H, Sec. 8124 (2022)
- b. 10 U.S.C. 10101
- c. 32 U.S.C. 101

3. Applicability. This memorandum applies to all USACE commands having responsibilities for civil works functions. The following policy is effective immediately.

4. Policy. It is the policy of the U.S. Army Corps of Engineers that:

a. USACE may accept services and supplies in support of a water resources development project or program, without reimbursement, from units or members of a reserve component of the Armed Forces carrying out military training activities or otherwise fulfilling military training requirements.

b. Pursuant to references 1.b. and 1.c., reserve components of the Armed Forces include:

- (1) The Army National Guard when federally activated (i.e., in a title 10 status).
- (2) The Army Reserve

CECW-CO (1165)

SUBJECT: Policy Guidance for Section 8124, Reserve Component Training at Water Resources Development Projects, of the Water Resources Development Act of 2022 (WRDA 2022)

- (3) The Navy Reserve
- (4) The Marine Corps Reserve
- (5) The Air National Guard when federally activated (i.e., in a title 10 status)
- (6) The Air Force Reserve
- (7) The Coast Guard Reserve

c. When conducting recurring monthly and annual training, National Guard units/members are in a non-federal, title 32, status and it is otherwise rare for National Guard units/members to conduct training while federally activated. Consequently, it is anticipated that little to no support from National Guard units/members can be accepted under section 8124. However, contributions of services and materials from National Guard units/members acting in their title 32 capacities as a component of state government may be accepted under 33 U.S.C. 2325 consistent with implementation of such authority under the USACE Contributions Program (see e.g., ER 1130-2-500, Ch. 11).

d. Support cannot be accepted under section 8124 from any reserve component member who is employed by USACE on a full-time basis.

e. Examples of training activities include, but are not limited to, facility construction, road grading/resurfacing, environmental restoration, clearing fire lines, flood debris removal, aerial inspections, heavy equipment operation, demolition, etc.

f. Soldiers performing services under this authority on USACE projects are considered employees/members of the reserve component to which they are assigned, and the soldiers will remain under the command and control of their applicable units. All pay, allowances, and benefits, to include any liability protection, of reserve component members are 100% the responsibility of the reserve component. However, when otherwise permissible and agreed to by the parties, USACE may fund, via an Economy Act order, travel expenses of reserve component members while they are providing direct support to USACE projects/programs.

g. USACE may provide necessary supervision and materials to execute a project.

h. Reserve component soldiers may be authorized to operate USACE-owned or leased vehicles, machinery or other specialized equipment deemed appropriate and beneficial. Reserve Component personnel must have the proper training, license, and/or experience in accordance with USACE operator permit policies, before operating a government-owned or leased vehicle, vessel, or equipment.

CECW-CO (1165)

SUBJECT: Policy Guidance for Section 8124, Reserve Component Training at Water Resources Development Projects, of the Water Resources Development Act of 2022 (WRDA 2022)

i. Support provided by reserve components under this authority will be agreed upon and defined in an Armed Forces Reserve Component Training Agreement (Encl 2) signed by the reserve unit leadership and applicable USACE leadership. Approval authority for Armed Forces Reserve Component Training Agreements is as follows:

- (1) MSC Commanders for any agreement exceeding a total value of \$1,000,000 for any of their districts.
- (2) District Commanders for agreements with a total value greater than \$500,000, but equal to or less than \$1,000,000.
- (3) District Chiefs of Operations for agreements with a total value greater than \$100,000, but equal to or less than \$500,000.
- (4) Operations Project Managers/Park Managers for agreements with a total value equal to or less than \$100,000.

j. The Armed Forces Reserve Component Training Agreement must address, at a minimum:

- (1) purpose and goal of the training exercise;
- (2) work to be accomplished, to include a project schedule and detailed scope of work description;
- (3) a detailed description of the project site;
- (4) equipment, materials, personnel provided by the reserve component and by the USACE;
- (5) safety requirements;
- (6) security and access requirements for the project site;
- (7) responsibility for lodging and meal accommodation costs for projects not in the immediate vicinity of the reserve component location;
- (8) the requirement that USACE review all design plans;
- (9) responsibility for damage to USACE property;
- (10) points of contact for each organization.

CECW-CO (1165)

SUBJECT: Policy Guidance for Section 8124, Reserve Component Training at Water Resources Development Projects, of the Water Resources Development Act of 2022 (WRDA 2022)

k. Work accomplished by reserve components shall be within current USACE authorities and contained in the annual or five-year plan in the approved Operational Management Plan (OMP) or Master Plan.

5. Point of Contact. My point of contact is Ms. Heather Burke, National Partnership Program Manager, who may be reached at (503) 808-4313.

Encls

EDWARD E. BELK, JR., P.E.
Director of Civil Works

ENCLOSURE 1

WRRDA 2022 Section 8124

14 **SEC. 8124. RESERVE COMPONENT TRAINING AT WATER RE-**
15 **SOURCES DEVELOPMENT PROJECTS.**

16 (a) **IN GENERAL.**—In carrying out military training
17 activities or otherwise fulfilling military training require-
18 ments, units or members of a reserve component of the
19 Armed Forces may perform services and furnish supplies
20 in support of a water resources development project or
21 program of the Corps of Engineers without reimburse-
22 ment.

23 (b) **EXCEPTION.**—This section shall not apply to any
24 member of a reserve component of the Armed Forces who
25 is employed by the Corps of Engineers on a full-time basis.

CECW-CO (1165)

SUBJECT: Policy Guidance for Section 8124, Reserve Component Training at Water Resources Development Projects, of the Water Resources Development Act of 2022 (WRDA 2022)

ENCLOSURE 2

ARMED FORCES RESERVE COMPONENT TRAINING AGREEMENT BETWEEN THE DEPARTMENT OF THE ARMY AND (INSERT RESERVE COMPONENT NAME)

(This is an EXAMPLE agreement. Modify as appropriate.)

ARTICLE I – PURPOSE AND AUTHORITY

This Agreement is entered into pursuant to section 8124 of the Water Resources Development Act of 2022 (Pub. L. 117-263, Div. H) by and between the U.S. Army Corps of Engineers (USACE), and [Insert reserve component], (hereinafter “the Reserve Component”) for the purpose of the Reserve Component, in carrying out military training activities or otherwise fulfilling military training requirements, performing the services and furnishing the supplies referenced herein in support of [insert water resource development project or program supported].

ARTICLE II – SCOPE OF WORK

[Insert detailed description of the entire project without regard to which Party will accomplish which portions of the project (the contributions from each Party will be laid out in the “RESPONSIBILITIES OF THE PARTIES” section below). Project description should include a detailed description of the project site/location and project schedule, which may be incorporated by reference and included as an attachment].

ARTICLE III – RESPONSIBILITIES OF THE PARTIES

a. In carrying out [insert specific training activities/requirements of the Reserve Component] the Reserve Component shall provide the following services and supplies to accomplish the scope of work described in Article II: [insert specific services/supplies that the Reserve Component will contribute].

b. The Reserve Component shall ensure that supplies furnished meet USACE specifications and standards. Work execution, to include material handling, storage, and disposal, shall comply with provisions of EM 385-1-1, Safety and Health Requirements Manual. All supplies furnished by the Reserve Component in accomplishing the scope of work, to include any resulting facilities or improvements, shall become USACE property.

CECW-CO (1165)

SUBJECT: Policy Guidance for Section 8124, Reserve Component Training at Water Resources Development Projects, of the Water Resources Development Act of 2022 (WRDA 2022)

c. The Reserve Component shall obtain USACE approval of any design/construction plans prior to commencing any construction activities.

d. USACE shall provide the following services and supplies to accomplish the scope of work described in Article II: [insert specific services/supplies that USACE will provide, to include any security or site access permissions].

e. [insert additional responsibilities as necessary (e.g., responsibility for travel costs—note: any Reserve Component travel funded by USACE must be in direct support of a USACE project/program; funding must be properly available for the purpose of the travel and must be provided under a separate, properly executed Economy Act order)]

ARTICLE IV – FUNDING AND STATUS OF RESERVE COMPONENT PERSONNEL

a. This Agreement does not document nor provide for the exchange of funds between the parties. Any exchange of funds between the Parties must be made by separate agreement and under specific statutory authority; this agreement does not provide such authority.

b. Each party is responsible for the command and control and all costs of its personnel, including but not limited to, pay and benefits, support, and travel [as applicable, alter to indicate that travel will be funded by USACE via a separate Economy Act order]. Decisions, agreements, and/or disputes regarding the pay and benefits of Reserve Component personnel are entirely the responsibility of the Reserve Component and the Reserve Component personnel.

c. Reserve Component personnel are not considered USACE employees nor do they qualify as volunteers under 33 U.S.C. 569c. Accordingly, Reserve Component personnel are not eligible to receive the liability protection or work injury compensation benefits provided under chapter 171 of Title 28 and chapter 81 of Title 5 of the United States Code.

d. USACE may authorize Reserve Component personnel to operate, for official use, government-owned or leased vehicles, vessels, machinery or other specialized equipment if deemed appropriate and beneficial. Reserve Component personnel must have the proper training, license, and/or experience in accordance with USACE operator permit policies, before operating a government-owned or leased vehicle, vessel, or equipment. The Reserve Component is liable for damages to government property if the Reserve Component personnel's negligence or willful misconduct is the proximate cause of the loss, damage or destruction of USACE property.

CECW-CO (1165)

SUBJECT: Policy Guidance for Section 8124, Reserve Component Training at Water Resources Development Projects, of the Water Resources Development Act of 2022 (WRDA 2022)

ARTICLE V - FEDERAL AND STATE LAWS

In the exercise of their respective rights and obligations under this Agreement, USACE and the Reserve Component agree to comply with all applicable Federal and State laws and regulations.

ARTICLE VI - DISPUTES.

Any disputes relating to this Agreement will, subject to any applicable law, Executive Order, or DoD issuance, be resolved by consultation between the Parties.

ARTICLE VII - AMENDMENT, MODIFICATION AND TERMINATION

This Agreement may be modified or amended only by written, mutual agreement of the Parties. Either Party may unilaterally terminate this Agreement by providing at least [insert number] days written notice to the other Party.

ARTICLE VIII - EFFECTIVE DATE

This Agreement takes effect when signed by the last Party.

ARTICLE IX – EXPIRATION DATE

This Agreement expires upon completion of the scope or work or completion of the Reserve Component training exercise, whichever occurs first.

ARTICLE X - NOTICES

a. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by registered or certified mail, with return receipt, as follows:

If to the Reserve Component:

[TITLE]
[ADDRESS]

If to USACE:

District Engineer
_____ District
[ADDRESS]

CECW-CO (1165)

SUBJECT: Policy Guidance for Section 8124, Reserve Component Training at Water Resources Development Projects, of the Water Resources Development Act of 2022 (WRDA 2022)

b. A party may change the recipient or address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Commander,
_____ District.

The Department of the Army [*RESERVE COMPONENT*]

BY:

BY:

TITLE:

TITLE:

DATE:

DATE: