

# Challenge Partnerships

## Partnerships in NRM PROSPECT Course



*“The views, opinions and findings contained in this report are those of the author(s) and should not be construed as an official Department of the Army position, policy or decision, unless so designated by other official documentation.”*



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# Authorities

- 33 USC 2328, Water Resources Development Act of 1992, Section 225
  - Section 225 of this law authorized the Secretary of the Army to enter into agreements with non-Federal public and private entities to provide for operation and/or management and development of recreation facilities and natural resources at water resource development projects where such facilities are being maintained at Federal expense.
  - This also authorized the Secretary of the Army to accept contributions of funds, materials, and services from non-Federal public and private entities.
  - It does not authorize the Corps to give funds, materials, services to the partner

# Policy and Procedures

- ER/EP 1130-2-500, dated 27 December 1996 revised 1 June 2006  
Project Operations - Partners and Support (Work Management  
Guidance and Policies)

## Chapter 12, Challenge Partnerships

- Appendix U, Sample Challenge Partnerships Agreement  
***This applies for both Appendices U and T. In 2002, the name of the Challenge Cost sharing Program was changed to the Challenge Partnership Program.***
- ***Until the regulation is updated, the examples cannot be changed. When drafting one of these documents, please replace the word "Cost sharing" with "Partnership"***



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# Differences Between Traditional Cost Sharing and Challenge Partnerships

<b>Traditional Cost Sharing</b>	<b>Challenge Partnerships</b>
PL 89-72	PL 102-580*
Fixed % (Normally 50%)	Flexible rate determined by mutual agreement
Rigid roles	Flexible roles
Can accept real estate from sponsor	Cannot accept real estate from partner
Sponsor operates	Corps operates
Cost share for any business function	Only Recreation & Natural Resources
Program management has lead	Operations has lead
Formal contract	Flexible agreement
Corps \$ year by year	Funds must be available in advance from operating funds. Way to stretch available funds.
Work accomplished over several fiscal years	Work generally accomplished during one fiscal year
Cost share only with non-Federal governmental entities	Cost share with non-Federal governmental and private entities
Normally with only one sponsor	May involve multiple sponsors on the same work activity

# What is a Challenge Partnership?

- It's an agreement between the government and a private organization or business or other non-federal agency.
- Challenge Partnership agreements can be made with international partners.
- CP agreements can be made with public/private entities.
- Not as rigid as traditional cost sharing.
- Also not to be confused with Project Cooperation Agreements



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# What can a Challenge Partnership Do?

- Help you accomplish any task that is part of your 5-year Operations Management Plan (OMP)
- Leverage resources normally not considered under typical operations due to budget constraints.
- Foster a sense of community among your project and the surrounding community.



Richard B Russell/Outdoor Dream Foundation Hunting Blinds



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# How to Create a Challenge Partnership Agreement

- Check the NRM Gateway
- Templates are posted
- The agreement needs to be signed at the appropriate level
  - \*(Reference ER 1130-2-500, Ch 12-2.k)
  - \$1 - \$25,000: Operations Project Manager
  - \$25,001 - \$200,000: Chief of Operations
  - \$200,001+: District Commander



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# Let's take a closer look at the CPA format:

<https://corpslakes.erdc.dren.mil/employees/challenge/partner.cfm>

|  
CHALLENGE PARTNERSHIP AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
EXAMPLE modify as appropriate

THIS AGREEMENT, entered into this day of \_\_\_\_, 20\_\_\_\_, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander, U.S. Army Engineer District \_\_\_\_\_, and \_\_\_\_\_, (hereinafter the "Partner"), represented by \_\_\_\_\_.

WITNESSETH, THAT:

WHEREAS, the Government manages lands and waters at Beautiful Lake which includes recreational opportunities for the public, and

WHEREAS, the installation of an accessible fishing platform at Scenic Recreation Area on Beautiful Lake will increase the recreational opportunities for the public, and

WHEREAS the Partner is interested in promoting and assisting the Government in providing this accessible fishing platform, and

WHEREAS, it is mutually beneficial to the Government and the Partner to work cooperatively to make this accessible fishing platform available to the public, and

WHEREAS the Partner, in order to assist the Government in this project has voluntarily



# Common Elements in a CPA

- 'Whereas' statements that describe the partnership, the authorities, and the mutually beneficial nature of the agreement
- Definitions and general provisions
- Obligations of the parties (What each will do)
- Method of payment
- Dispute resolution
- Federal and state laws
- Relationship of the parties
- Officials not to benefit
- Indemnification (partner will not hold the gov't liable)
- Termination
- Notices (points of contact)
- Confidentiality
- Signatures



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# A Note About the Indemnification Clause

In the event that the partner is unwilling to sign the CPA due to the indemnification clause (State entities often have issues with this), a remedy that has worked in the past in some districts is to include one of the following:

- “Nothing in this agreement should be construed as limiting the rights and obligations as Grantee hereunder from pursuing a claim as allowable under the Federal Tort Claims Act.”
- Liability: Corps shall be liable, to the extent allowed by the Federal Tort Claims Act (28 U.S.C. § 2671 et seq.), for claims for property damage and personal injury resulting from the negligent acts or wrongful act or omission of any Corps employee while acting within the scope of his employment arising out of the activities described herein. The Partner shall be liable, to the extent allowed by the Federal Tort Claims Act, for claims for property damage and personal injury resulting from the negligent acts or wrongful act or omission of any Partner employee while acting within the scope of his employment arising out of activities described herein.

We have also had issues with other entities wanting us to procure insurance. We’ve inserted a provision reflecting that we are essentially self-insured in those agreements to satisfy the partner.



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# Challenge Partnerships Successes



## Lake Lanier and BASS: Little Hall Fishing Tournament Complex

- Pre-CPA: Popular tournament fishing site with inadequate facilities
- Post-CPA: Sheltered pavilion, 3 fish holding tanks with water pumped aeration, seating for 150 spectators, a large courtesy mooring dock, a leader board, and a display area for tournament sponsors and vendors.
- The Corps was able to construct this new facility by accepting more than \$30,000 worth of building materials from various donors.
- Donors are acknowledged at the site on the tournament leader board and also on stamped bricks.



# Challenge Partnerships Successes

## Dworshak Dam and Reservoir: Training Assistance Program

- CPA with Juvenile Correction Center (JCC)- Lewiston, ID
- JCC provides a Trail Crew Maintenance Training Program
- Corps provides materials for improvement projects such as benches, bridges, tools, and logistical support
- JCC provides a Trail Crew Maintenance Training Program
- Corps provides materials for improvement projects such as benches, bridges, tools, and logistical support to deliver materials.
- Program provides participants the opportunity to learn specific outdoor skills and environmental awareness while providing the community with a valuable service.
- Training opportunities: CPR, map/compass skills, GPS



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# Challenge Partnerships Successes



## John H. Kerr Reservoir Kayak/Canoe Launch

- CPA Roanoke River Basin Association
- Also involved Virginia Tourism Corporation, veterans organizations, and donations from private businesses and state grant funds.
- CPA provided design and construction of accessible canoe/kayak launch in the tailrace area, interpretive signs, and parking access



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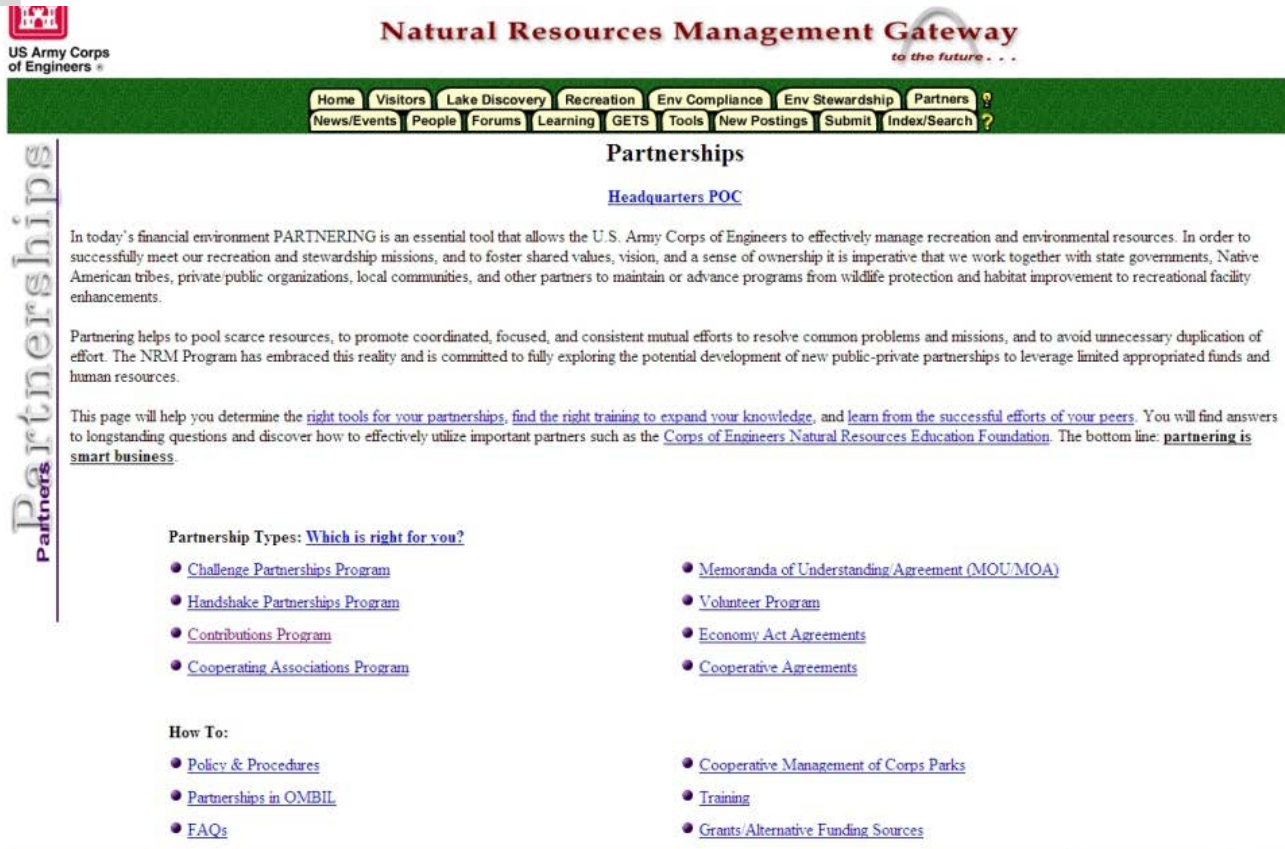
# Challenge Partnerships Successes



## Carlyle Lake Multi-User Trail

- CPA City of Carlyle, IL DOT, IL Department of Natural Resources
- Series of challenge partnership agreements and DOT grants. Connected City of Carlyle trails with Corps property.
- CPA provided for trail planning, surface improvements, interpretive displays, signs, benches, bike racks, accessible fishing pier

# How to Develop an Agreement:



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**Natural Resources Management Gateway**  
to the future . . .

Home Visitors Lake Discovery Recreation Env Compliance Env Stewardship Partners ?  
News/Events People Forums Learning GETS Tools New Postings Submit Index/Search ?

## Partnerships

### Headquarters POC

In today's financial environment PARTNERING is an essential tool that allows the U.S. Army Corps of Engineers to effectively manage recreation and environmental resources. In order to successfully meet our recreation and stewardship missions, and to foster shared values, vision, and a sense of ownership it is imperative that we work together with state governments, Native American tribes, private/public organizations, local communities, and other partners to maintain or advance programs from wildlife protection and habitat improvement to recreational facility enhancements.

Partnering helps to pool scarce resources, to promote coordinated, focused, and consistent mutual efforts to resolve common problems and missions, and to avoid unnecessary duplication of effort. The NRM Program has embraced this reality and is committed to fully exploring the potential development of new public-private partnerships to leverage limited appropriated funds and human resources.

This page will help you determine the [right tools for your partnerships](#), [find the right training to expand your knowledge](#), and [learn from the successful efforts of your peers](#). You will find answers to longstanding questions and discover how to effectively utilize important partners such as the [Corps of Engineers Natural Resources Education Foundation](#). The bottom line: **partnering is smart business.**

**Partnership Types: [Which is right for you?](#)**

- [Challenge Partnerships Program](#)
- [Handshake Partnerships Program](#)
- [Contributions Program](#)
- [Cooperating Associations Program](#)
- [Memoranda of Understanding/Agreement \(MOU/MOA\)](#)
- [Volunteer Program](#)
- [Economy Act Agreements](#)
- [Cooperative Agreements](#)

**How To:**

- [Policy & Procedures](#)
- [Partnerships in OMBIL](#)
- [FAQs](#)
- [Cooperative Management of Corps Parks](#)
- [Training](#)
- [Grants/Alternative Funding Sources](#)

- The hard part has been done for you!
- Check the NRM Gateway website
- Look at the Partners tab



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# How to Keep Your Office of Counsel Happy

- Involve Office of Counsel early in the process.
- Always know the answer to your question before asking!
- Make sure you include copies of sections of the ER, EP, and Public Laws that pertain to any questions they may have.
- Remember that our lawyers have a wide variety of subject matters that they must be 'fluent' in. They may not be familiar with all of our NRM partnership specific authorities.
- Don't forget to run your proposed projects through Planning for NEPA compliance early in the process.
- Don't go with gut feelings, go with the regulations!



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# REVIEW

## True or False:

Challenge Partnership Agreements (CPAs) can only be done with non-Federal entities.

True



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## REVIEW

### True or False:

Challenge Partnership Projects can be completed on Corps' lands or on leased lands.

**FALSE**

Challenge Partnership projects can only take place on Corps lands and waters where such facilities are being maintained at Federal expense (not on standard recreation lease areas).



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# Review

- Who is authorized by ER 1130-2-500 to sign a CPA at the following value thresholds?

\$1 - \$25,000      Operations Project Manager (\$25k or less)

\$25,001 - \$200,000      Chief of Operations (\$200k or less)

\$200,001+      District Commander (Over \$200K)



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# Review

True or False:

CPAs can only be made with American based organizations/companies.

False



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# Review

What is the limit to the number of partners allowed on a Challenge Partnership Agreement?

There are no limits to the number of partners allowed on a CPA.



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# Review

## True or False:

Challenge Partnership Agreements require a 50/50 match with the partner.

**False**

The former “Cost Sharing” program required a match but the current Challenge Partnership Program does not require a set matching amount.



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# Review

Is a Challenge Partnership Agreement and the Handshake the same?

No. A CPA is the agreement where two or more partners agree to accomplish a project together. The Handshake Program is an incentive program where the HQ offers seed money to encourage partnering. A Handshake Project requires a CPA but not all CPA's are Handshake Projects.



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