

Memoranda of Understanding (MOU) & Memoranda of Agreement (MOA)

Partnerships in NRM
PROSPECT Course



US Army Corps of Engineers
BUILDING STRONG®



Course Objectives

- Goal: Participants will learn of the differences between the two types of agreements and how they are developed and utilized.
- National MOU list and brief description of the types of work/activities included in the MOU
- Local MOUs and success stories



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MOU & MOA: What are They?

- MOUs and MOAs are used to coordinate the Corps' authorized activities with another entity.

Outline what each entity has to offer to the partnership, as well as what each has at stake.

These "agreements to agree" or umbrella agreements are often used interchangeably (and incorrectly) in conversation, but they are distinctly different.



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Authority for MOUs

- There is no explicit authority which permits USACE to collaborate through these non-binding documents, but all activities need to be within the Corps mission.
- Anything the Corps does under the MOU would be based on other general authorities.
- For example, there is no explicit authority to hold meetings or conferences related to Civil Works projects, but usually such meetings are implicitly permitted by the general authorities as a necessary expense to accomplish our legislatively permitted goals.
- If the MOU has something to do with recreation or environmental stewardship at Civil Works sites, the general authorities related to operating and maintaining these areas would apply.



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Memorandum of Understanding (MOU)

- A “general area of understanding” within both parties' authorities.
- No transfer of funds for services is anticipated.
- Nothing of value must be transferred between the parties.
- MOUs often state common goals and nothing more.
- An MOU may be used to outline the operation of a program so that it functions a certain way.
 - ▶ For example, two agencies that have similar goals may agree to work together to solve a problem or support each other's activities by using an MOU.
- The MOU is nothing more than a formalized handshake that may help keep a partnership “on task”

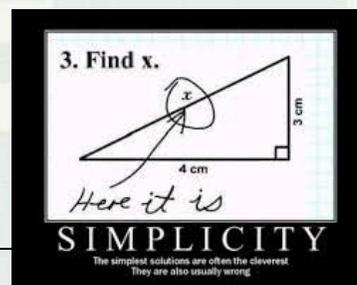


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MOUs are Simply an “Agreement”

- MOUs do not contemplate funds transfers and should usually include language that states something similar to:
 - ▶ “This is not a funds obligating document; by signing this agreement the parties are not bound to take any action or fund any initiative.”
 - ▶ MOUs are not legally binding
- MOUs can be as large, or as small in scope as you'd like them to be.
- Advice: Keep 'em simple!



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How to Get Started with a MOU

<http://corpslakes.usace.army.mil/nrm.cfm>

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

Partnerships
MOU/MOA

MOUs/MOAs Sample Templates

Here are two examples from the Portland District used when developing new MOUs or MOAs at the local level. Please note that processes may vary from district to district.

- [NWP: Portland District Sample MOU template](#) 
- [NWP: Portland District Sample MOA template](#) 
- [AR 25-50 Preparing and Managing Correspondence](#) - MOU and MOA format
- [DOD Instruction 400019: Support Agreements](#) - MOU and MOA templates with required content and clauses
- [DOD MOA template](#)
- [DOD MOU template](#)
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DOD Instruction 400019 MOU Template

MEMORANDUM OF UNDERSTANDING BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS (USACE)
AND
THE [SECOND PARTY (AND ACRONYM)]
FOR
[INSERT SUBJECT]
AGREEMENT NUMBER [INSERT NUMBER]

[This template is provided for use in preparing a memorandum of understanding (MOU) between USACE and other entities. MOUs must include the information in the sample below regardless of the format used. An MOU, as defined in DoDI 400019 is a type of intra-agency, interagency, or National Guard agreement between two or more parties, which includes only general understandings between the parties and includes neither a commitment of resources nor binds a party to any specific action.]

This is a Memorandum of Understanding (MOU) between USACE and the [second party]. When referred to collectively, USACE and the [second party] are referred to as the "Parties."

1. BACKGROUND: [If there is a need to discuss background, do so here.]
2. AUTHORITIES: [Since an MOU is non-binding, there is generally no need to include authorities.]
3. PURPOSE: [State the purpose of the MOU here. Always use this paragraph.]
4. UNDERSTANDINGS OF THE PARTIES:
 - 4.1. The [first party]—
 - 4.1.1. [insert as many intentions as desirable]
 - 4.2. The [second party]—

Common Elements of an MOU

- Purpose (Why?)
- Authority (What allows us to partner)
- Responsibilities (What each party will do)
- Mutual Understandings/Conditions
 - Subject to appropriations
 - Not a fiscal or fund-obligating document
 - Does not restrict the agency from working with others
 - Does not imply endorsement of partner
 - No discrimination
 - No preferential treatment
 - May be amended or terminated at any time
 - Expiration date (can be 'until terminated')
- Principal Contacts
- Effective Date
- Signatures



MOU Examples

USACE has over 40 national MOUs that can be found on the Gateway.

National MOUs/MOAs

All MOUs and MOAs listed are Natural Resources prominent unless otherwise noted.

- [Archive of MOUs/MOAs](#)

Agency/Organization	Start Date	Description	End Date
21st Century Conservation Service Corps	1/1/13	MOU between Department of the Army, DOI, DOA, DOC, DOI, EPA, CFQ, and CNCS (link to attached file) Purpose: To establish the interagency National Council for the 21 CSC and form an interagency working group.	In effect until terminated
American Chestnut Foundation	12/2009	MOU between USACE and the American Chestnut Foundation Purpose: To restore the American Chestnut on USACE lands	In effect until terminated
Association of Partners for Public Lands	10/2003	MOU between USACE and APPL Purpose: Partner on training, communication products, and policy	In effect until terminated
BASS	6/1996	MOU between Bass Anglers Sportsman Society and USACE Purpose: Maintain and enhance sportfishery resources, public fishing opportunities, and increase public understanding	In effect until terminated
BoatU.S.	2006	MOU between BoatU.S. and USACE Purpose: Cooperate on boating and water safety education outreach, materials, and education	In effect until terminated
Boy Scouts of America	3/1987	Cooperative Agreement between USACE and BSA Purpose: Work together to protect, develop, and conserve water resources	In effect until terminated
CAST (Catch a Special Thrill)	6/2012	Interagency MOU Purpose: Interagency MOU with CAST to develop and implement recreation programs, projects, and activities that serve children and military service members with disabilities and/or disadvantages.	6/2022
Cooperative Conservation	1/2009	MOU between the USACE and Cooperative Conservation (Department of Agriculture, DOC, DOD, DOI, and CFQ) Purpose: Identify issues, develop solutions, and share best practices in collaborative natural resource and environmental management	In effect until terminated

National MOUs

- American Chestnut Foundation
- BASS
- Boat US
- Boy Scouts
- CAST
- Ducks Unlimited
- Federal Highway Administration
- FLW
- Girl Scouts
- IMBA
- Leave No Trace
- National Audubon Society
- NEEF
- NFWF
- National Park Service
- National Wild Turkey Federation
- NRCS
- Outdoor Alliance
- Paralyzed Veterans of America
- Recreation Fisheries Habitat
- Safe Kids
- SE Tourism Policy Council
- SCA
- Nature Conservancy
- Tread Lightly!
- USDA
- USFWS
- USGS
- US Power Squadron
- US Coast Guard and Auxiliary
- Watchable Wildlife
- Wildlife Habitat Council

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MOU Successes in FY 14

- American Chestnut Foundation: 6 locations, \$49,982 partner value
- Boy Scouts: 79 locations, \$408,219 value
- National Audubon: 7 locations, \$172,686 value
- NEEF: 7 locations, \$114,943 value
- National Park Service: 6 locations, \$312,330 value
- National Wild Turkey Federation: 10 locations, \$172,411 value
- Bonneville Power Administration: 22 locations, \$36.7 million value
- US Coast Guard Auxiliary: 11 locations, \$127,434 value



American Chestnut Foundation



SCA Water Safety Intern



CAST Take a Warrior Fishing

Who can sign a MOU?

- A draft of the MOU should be forwarded for review by the District Office Partnership Coordinator and the other agency before finalizing the draft.
- Signature of the MOU should be made in accordance with USACE District policies and authorizations.



Corps Foundation MOU signing

- MOUs can be signed by the OPM, District Operations Chiefs, District Engineers, Division Commanders, or HQ representatives depending on the scope of the activity.



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Memorandum of Agreement (MOA)

- A “conditional agreement” between two or more parties where the transfer of funds for services is anticipated.
- The MOA is prepared in advance of a support agreement/ reimbursable order form that defines the support, basis for reimbursement, the billing and payment process, and other terms and conditions of the agreement. *Note: Each District has different processes and procedures; contact your District Office Partnership Coordinator.
- MOAs often establish common legal terms that will be read into every reimbursable order that follows.
- MOAs do not obligate any funds themselves, but they establish the terms for future service and cite one of the appropriate authorities to do so.



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SUPPORT AGREEMENT			
1. AGREEMENT NUMBER <i>(Provided by Supplier)</i>	2. SUPERSEDED AGREEMENT NO. <i>(If this replaces another agreement)</i>	3. EFFECTIVE DATE (YYYYMMDD)	4. EXPIRATION DATE <i>(Use the "today" key)</i>
5. SUPPLYING ACTIVITY a. NAME AND ADDRESS		6. RECEIVING ACTIVITY a. NAME AND ADDRESS	
7. MAJOR COMMAND		8. MAJOR COMMAND	
9. SUPPORT PROVIDED BY SUPPLIER c. SUPPORT <i>(Specify what, when, where, and how much)</i>		e. ESTIMATED BUDGET	
10. APPROVING AUTHORITY a. APPROVING AUTHORITY b. DATE SIGNED		11. APPROVING AUTHORITY a. APPROVING AUTHORITY b. DATE SIGNED	
12. TERMINATION <i>(Complete only when agreement is terminated prior to scheduled expiration date.)</i> a. APPROVING AUTHORITY SIGNATURE b. DATE SIGNED		13. TERMINATION <i>(Complete only when agreement is terminated prior to scheduled expiration date.)</i> a. APPROVING AUTHORITY SIGNATURE b. DATE SIGNED	

**ENG Form 4914-R–
Used with non- DOD agencies**

**U.S. ARMY CORPS OF ENGINEERS
INTERAGENCY SUPPORT AGREEMENT
(ER 1148-1211)**

1. AGREEMENT NO. _____
2. INITIAL AGREEMENT
 AMENDMENT NO. _____

3. PROJECT TITLE _____
4. EFFECTIVE DATE _____
5. COMPLETION DATE _____

6. NAME AND ADDRESS OF USACE ORGANIZATION _____
7. NAME AND ADDRESS OF OTHER AGENCY _____

8. SCORE OF WORK *(Additional pages may be used as needed)*

9. SPECIAL PROVISIONS *(Additional pages may be used as needed)*
a. All rates expressing the unit cost of services provided in this agreement are based on current rates which may be subject to change for uncontrollable reasons, such as legislation, DOD directives, and commercial utility rate increases. The receiver will notify immediately of such rate changes that must be passed through to the support receiver.
b. This agreement may be cancelled at any time by mutual consent of the parties concerned. This agreement may also be cancelled by either party upon giving at least 150 days written notice to the other party.
c. In case of mobilization or other emergency, this agreement will remain in force only within supplier's capabilities.

10. USACE PROJECT OFFICER _____ TELEPHONE _____
11. OTHER AGENCY PROJECT OFFICER _____ TELEPHONE _____

ADDRESS _____ ADDRESS _____

DD FORM 1144, NOV 2001 PREVIOUS EDITION MAY BE USED. Page 1 of 3 Pages
ENG FORM 4914-R, SEP 1997 EDITION OF JAN 83 IS OBSOLETE. (PREPARED BY CECM)

How to Get Started with a MOA

<http://corpslakes.usace.army.mil/nrm.cfm>

Home
Visitors
Lake Discovery
Recreation
Env Compliance
Env Stewardship
Partners

News/Events
People
Forums
Learning
GETS
Tools
New Postings
Submit
Index/Search

MOUs/MOAs Sample Templates

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Partnerships

MEMORANDUM OF AGREEMENT BETWEEN
THE [FIRST PARTY (AND ACRONYM)]
AND
THE [SECOND PARTY (AND ACRONYM)]
FOR
[INSERT SUBJECT]
AGREEMENT NUMBER

This is a Memorandum of Agreement (MOA) between the [first party] and the [second party]. When referred to collectively, the [first party] and the [second party] are referred to as the "Parties".

1. BACKGROUND: [If there is a need to discuss background, do so here. Normally, there is no need to discuss the background or provide justification for the MOA, particularly if between DoD Components. Occasionally, however, there is a desire to explain the need for the MOA; particularly where it is not self-evident from the Purpose or it is with a Federal agency.]

2. AUTHORITIES: [State the legal authority upon which the reimbursable MOA is based, such as the Economy Act, or any other legal or significant authority that authorizes any such actions associated with this MOA. If there is a need to discuss the authorities of the parties, do so here. This is only necessary where the authorities of the parties are not obvious, or where it is desirable to specify a specific authority that generated the need for the agreement, e.g., a Congressional direction. This paragraph is rarely needed between DoD Components. If the other party is a federal agency and insists on stating what it believes to be its own authority, preface that assertion with "The [party] asserts the following authority:". The DoD has no obligation to agree with such assertions of authority by other federal agencies.]

3. PURPOSE: [State the purpose of the MOA here. Always use this paragraph.]

4. RESPONSIBILITIES OF THE PARTIES:

4.1. The [first party] will—

4.1.1. [Insert as many responsibilities as necessary but ensure all the

Common Elements of an MOA

- Purpose and Authority (Why)
- Scope
- Interagency Communications (Who is involved)
- Taskers
- Responsibilities (What each party will do)
- Funding/Financial details (Who is paying)
- Acceptance of funds/billing
- Applicable Laws and Regulations
- Records and reports
- Safety
- Amendment, Modification, Termination
- Mutual Understandings/Conditions
- Effective Date
- Signatures



MOA Examples

- United States Geological Survey and USACE
 - Purpose: Provision of goods and services (planning, design, construction, restoration, R&D, engineering, training, etc.)
- U.S. Department of Agriculture and USACE
 - Purpose: Forest Insect and Disease Suppression on DOD Lands
- Federal Highway Administration and USACE
 - Purpose: Collaborate to provide goods and services
- General Services Administration (GSA) and USACE
 - Purpose: Customer surveys
- National Park Service and USACE
 - Purpose: Natural and cultural resource management



Who can sign a MOA?

- A draft of the MOA should be forwarded for review by the District Office Partnership Coordinator and the other agency before finalizing the draft.
 - ▶ Signature of the MOA should be made in accordance with USACE District policies and authorizations.
 - ▶ Typically the MOA is signed at the District level by the District Engineer or their authorized representative.



USACE District Policies and Authorizations

Note that neither MOUs nor MOAs can be used independently to receive services or obligate funds beyond those separately authorized, and that any MOU or MOA with outside entities should be made in accordance with USACE District policies and authorizations.



Local MOUs

Local MOUs are not required if the proposed partner's parent organization or primary organization has an existing National MOU with the Corps.

However, if the potential partner requests a local MOU as a condition to partner with the Corps, you may use the National MOU as a model example to create a local version.

Raystown/Ruffed Grouse Society WMA



Tioga-Hammond/PA Fish & Boat Commission Fish Habitat Improvements



John Martin/CO State Parks Eagle trees



Local MOU Successes

SAS: Outdoor Dream Foundation, August 2011 (for outdoor recreation)

- Seek Opportunity to partner with ODF to provide unique outdoor recreation and educational opportunities.
- Foster communication and understanding to make appropriate land and waters available for specific projects.
- Recognize the contribution of ODF and their public partners
- Cooperate in area of facility planning, education outreach, program development
- Collaborate in the development of annual action plans.

Some fun after catching a catfish at the 24th Annual Kid's Fishing Derby at Richard B. Russell Lake



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Local MOU Successes

NWP: Bonneville Power Administration, OR Dept of Agriculture, Oregon Hunters Assn, USDA Forest Service, May 2013

- Cooperative project to improve habitat while meeting BPA's vegetative maintenance objectives
- Establish self-sustaining low-growing plant communities that provide diverse habitat for wildlife
- Reduce invasive exotics and replace with native plants
- Studies conducted for pollinators
- Obliterate and restore unnecessary road segments



Local MOU Successes

SWT: Oklahoma Department of Wildlife Conservation and Southwest Power Administration



- Partnership to create an improved fishery and aquatic resource downstream of Tenkiller Dam
- SWPA provides funding for diversion pipe and other capital improvements, works with Corps to modify power generation schedules to meet fishery needs



- ODWC monitors DO levels and temperatures and provides input for power generation schedules



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Recap Questions

An MOU states

- a. Common goals and nothing more
- b. Common legal terms that will be read into every reimbursable order that follows.
- c. there will be an exchange of funds between the partners.
- d. that no work can be done unless each partners is present.



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Recap Questions

TRUE or FALSE

If there is a national MOU with an organization, you need to develop an MOU with the local chapter of the organization to partner with them.

FALSE



Recap Questions

An MOU can be signed by which of the following?

- a. OPM
- b. District Ops Chief
- c. District Engineer



Questions

