

# Challenge Partnerships

Partnerships in NRM  
PROSPECT Course



US Army Corps of Engineers  
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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



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## 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

Traditional Cost Sharing	Challenge Partnerships
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



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## 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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**She said she was in a Challenge partnership with me on facebook**

**so I guess you could say things are getting pretty serious**

## 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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## Who to Partner with:

- Consider your goals
- Who shares your vision?
- Who has the time, energy and resources to commit?
- What's in it for them?
- Once you have the answers to the questions above, look at your users and community.



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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 (\$25k or less)
  - \$25,001 - \$200,000: Chief of Operations (\$200k or less)
  - \$200,001+: District Commander (Over \$200K)



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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 agreed to pay a portion of the cost, and

WHEREAS, Section 225 of the Water Resources Development Act of 1992, PL 102-580, (Oct 31, 1992), authorizes the Secretary of the Army to accept contributions from the Partner and apply those contributions to the Project, and



## 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 heartburn with this), a remedy that has worked in the past 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.

## 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 and compass skills, GPS



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## Challenge Partnerships Successes



### John H. Kerr Reservoir Kayak/Canoe Launch

- CPA Roanoke River Basin Association
- Also involved VA 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

### Lewisville Lake Wildlife Management Area

- CPA with City of The Colony, TX
- Pre-CPA: Illegal and destructive mowing, ATVs, dumping. Private use. Difficult access for enforcement
- Post-CPA: New trail, easier monitoring, citizen appreciation, Trail Rangers
- CPA gave City management authority on Corps land. City adopted fees for mowing/irrigation permits, monitors shoreline, plants trees with mitigation money. City manages Trail Ranger program.



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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



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# How to Develop an Agreement:



- 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 PL that pertain to any questions they may have.
- Remember that our lawyers have a wide variety of subject matter that they must be 'fluent' in. They may not be familiar with all of our NRM partnership specific authorities.
- Don't go with gut feelings, go with the regulations!



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## Don't Reinvent the Wheel

- Review the existing boilerplate agreement
- Tailor it to fit your District or Division
- Send it to your Office of Counsel for review
- Get it signed and distributed to the parks
- Inform the other rangers and staff at your project about what you have the authority to do!



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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 fee-owned 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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# Questions?



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