

Challenge Partnership Agreements

Partnerships in NRM
PROSPECT Course



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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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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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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



Challenge Partnership FAQs

Q. What is the difference between a Contribution and a Challenge Partnership?

- A. Contributions are funds, materials, equipment and/or services given to the Corps and must meet the requirements of a project-level OMP and a contributions plan. Contributions become Corps property without further participation by the contributor.

Challenge partnerships allow through a formal agreement the acceptance of funds, materials, and services to accomplish specific recreation and resource work programs. Partners may be involved in the management of the work project.

Services (labor) accepted through either program are counted as Volunteers and are captured in NRM Assessment/OMBIL during the annual update.



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Challenge Partnership FAQs

Q. Is a Challenge Partnership Agreement the same thing as a Handshake Agreement?

- A. No. The Handshake Partnership Program is a specific incentive program developed by HQUSACE to encourage partnerships by providing national funding through a competitive process.

When the Handshake Program commenced in 2004, all Handshake partnerships required a Challenge Partnership Agreement. This often led to confusion and erroneous use of the terms interchangeably.

All Handshake Partnerships must have a Challenge Partnership Agreement, but not all Challenge Partnership Agreements are part of the Handshake Program.



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Challenge Partnership and the Handshake Program



Challenge Partnership
aka "Papa Bear"

Handshake Partnerships
aka "Baby Bear"



Challenge Partnership FAQs

Q. Are Challenge Partnerships a type of cooperative agreement that must be administered by a grants officer?

A. Challenge partnership agreements are NOT cooperative agreements as that term is used in the Federal Grant and Cooperative Agreement Act of 1977, 31 U.S.C. 6305 (FGCAA), nor are they subject to the DOD regulations governing cooperative agreements, including the requirement for execution by a certified grants officer.

Although Sec 225 of 33 USC 2328 uses the term cooperative agreement, it involves a type of transaction not covered by the FGCAA. A cooperative agreement under the FGCAA involves transfer of funds (or other items) from the Federal Government to a non-Federal entity. Conversely, a challenge partnership agreement involves the acceptance of funds, materials, and services by the Federal Government.



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Challenge Partnership FAQs

Q. Are Challenge Partnership Agreements the same thing as traditional cost-sharing agreements?

A. No, Traditional cost-sharing agreements, which were authorized by Public Law 89-72 require a minimum of 50% partner funding for recreational management and 25% for fish and wildlife enhancement; administration of the lands and waters by the partner; and all costs of operation, maintenance, and replacement by the partner.

Under the WRDA 1992 authority for challenge partnerships, there is no fixed rate of cost share. Flexible percentages are determined by mutual agreement between the Corps and the partners. Roles of each entity are also flexible. The Corps operates the area under the partnership under a flexible agreement. Work may involve multiple partners. Challenge partnership agreements are also NOT the same as Project Cooperation Agreements, or Economy Act Orders.



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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



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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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. This safeguards USACE from the risk of an Anti Deficiency Act violation, whereby we are potentially obligated to pay claims for which we have no adequate source of funds.)
- 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.



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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.
 - 2004: Street lighting on Lake Road (\$13,808)
 - 2006: Path upgrades and extension (\$47,600)
 - 2008: Trail extension along Rt 127 and Lake Rd (\$241,870)
 - 2011: Signs and markings, outdoor interp display, map, benches, bike racks (\$24,800)



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Challenge Partnerships Successes



**Little Rock District- Beaver Lake
Prairie Creek Tournament
Weigh-In Station**



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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

Partnerships



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CHALLENGE PARTNERSHIP EXERCISE

The goal is to be able to help you hone your skills in planning and writing your challenge partnership project. At the end of this exercise you should have a good start on a future handshake application in a later exercise.

- I. Brainstorm – 15 min



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I. Brainstorm

- On your Challenge Partnership Project Exercise sheet, fill in the name of your lake, the title of your proposed partnership project, and potential partners that you might work with.
- Develop a summary statement outlining YOUR plan to work with your partners for your proposed project.
- The first sentence should say exactly what you are doing.
- You will use this sheet in a later Handshake exercise; Think of the context as it pertains to a proposed Handshake project.



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How to Keep Your RM and OC Happy

- Involve Office of Counsel and Resource Management early in the process...*EARLY!*
- 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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Questions



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