CHALLENGE PARTNERSHIP AGREEMENTS

Partnerships in NRM
PROSPECT Course

U.S.ARMY

US Army Corps of Engineers®

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

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“***

What Can a Challenge Partnership Do?

- Help you accomplish tasks that are 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 during the annual update.

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.

Challenge Partnership and the Handshake Program

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.

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.

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

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

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.

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

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

Challenge Partnerships Successes

Carlyle Lake Multi-User Trail

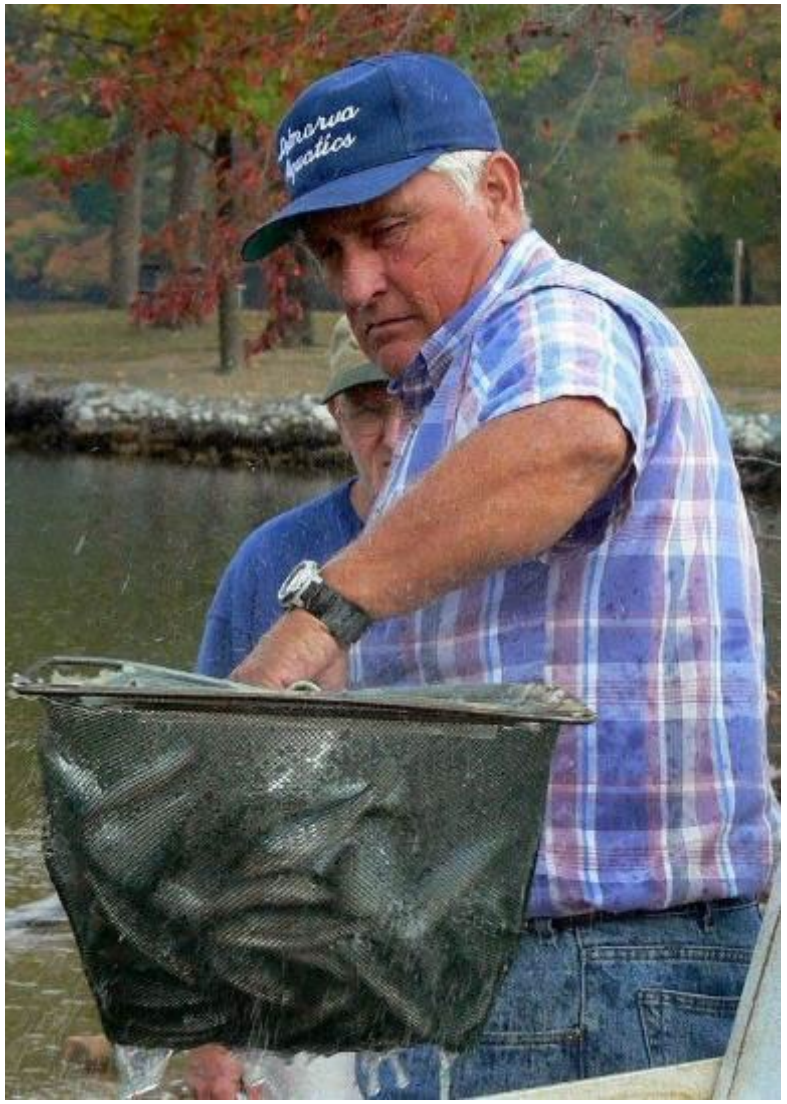
- CPA City of Carlyle, IL DOT, IL Department of Natural Resources
- Series of challenge partnership agreements and DOT grants. Connected City of Carlyle trails with Corps property.
  - 2004: Street lighting on Lake Road ($13,808)
  - 2006: Path upgrades and extension ($47,600)
  - 2008: Trail extension along Rt 127 and Lake Rd ($241,870)
  - 2011: Signs and markings, outdoor interp display, map, benches, bike racks ($24,800)

Challenge Partnerships Successes

Pennsylvania Striped Bass Association

The Pennsylvania Striped Bass Association's mission is to preserve the striped bass fisheries at Raystown Lake. Since their inception, this group has been a dynamic leader in projects like fish stocking, spawning research, aquatic habitat improvement, community involvement, education, and much more.

- Established by a group of anglers in 2005
- Augmented state's striped bass stocking efforts by purchasing and stocking over 800,000 fingerlings and 1.8 million fry in Raystown Lake
- Partnered with 3 organizations to create the Raystown Lake Striped Bass Hatchery to spawn and raise striped bass in-house
- Participates in annual aquatic habitat improvement events, including Lake Cleanup and Fish Structure Building Days
- Contributes over 3,000 volunteer hours annually
- Partnership type: Challenge Partnership



Challenge Partnerships Successes

Lake Washington Ship Canal and Discover Your Northwest

Developed a Challenge Partnership Agreement, co-sponsored by the Corps Foundation, to raise $1.3 Million for renovations to the fish ladder viewing area.

DYNW has raised funds through grants, bookstore sales, donor wall contributions, and special events.

Challenge Partnerships Successes

ROGUE RIVER WATERSHED COUNCIL

RIVER MILE 5.6 RESTORATION PROJECT – CHALLENGE PARTNERSHIP

ELK CREEK PROJECT

Rogue River Watershed Council led the 6+ year multi-agency partnership effort to restore and improve 1.03 miles of critical habitat at Elk Creek Project for federally-listed salmonids and improve water quality and habitat for the entire ecosystem. $289,000 in funding and labor contributed.

Partners included: Rogue River Watershed Council, USACE, Bureau of Land Management, US Forest Service, Hancock Forest Management, Medford Water Commission, Oregon Watershed Enhancement Board.

Improved 1.03 miles of critical salmonid habitat by:

1) Reactivating three side channels that were previously bermed/filled
2) Placing 206 pieces of large woody debris at 29 locations
3) Restoring the riparian forest by treating 30 acres of noxious weeds, replanting 19 acres with native vegetation
4) Constructing 8,000 feet of wildlife-friendly fence to prevent habitual livestock trespass and damage

Community Impact: Interpretive signage was created to convey the importance of this ecosystem restoration project. Use of non-marketable timber salvaged from the 2018 Miles Wildfire that impacted over 52,000 ac in the local community.

Side channel excavation with large woody debris. Logs donated by BLM and Hancock Timber- salvage from 2018 Miles wildfire that burnt 200+ ac in Elk Creek.

Manual removal of dense stands of invasive blackberry in sensitive riparian areas- many areas so thick the ground was not visible. Thirty acres treated in all. →

← Large woody debris being placed in key locations in reactivated side channels.

How to Develop an Agreement:

Challenge Partnerships Agreements

Challenge Partnership Agreements

Numerous Challenge Partnership Agreements (CPAs) have been set up at lake and river projects around the Corps (not including those related to Handshake Partnerships). Listed below are some examples of CPAs categorized by major project type. You can also find more examples on the Handshake Program Applications and Agreements page by clicking on any of the Agreement links.

- Challenge Partnership Agreement - Word document template/fillable form

Trails

- New Orleans District, Bonnet Carre Spillway and South Louisiana Trailblazers, Inc.- ATV trail development, July 2000
- Walla Walla District, Dworshak Reservoir and State of Idaho Juvenile Correction Center- Trail maintenance, June 2010
- Forth Worth District, Waco Lake, the Texas Equestrian Trail Riders Association and the Waco Bicycle Club- Construction of equestrian group camp and trailhead improvements, 2010

Recreation

- Kansas City District, Tuttle Creek Lake, Briggs Motor Company, Inc. and Flat Land Jeep Club- ORV recreation area improvements, 2000
- Little Rock District, Greers Ferry Lake, Arkansas Game & Fish Commission; First Electric Cooperative; City of Greers Ferry, Arkansas; Greers Ferry Area Chamber of Commerce; and Greers Ferry Lake Bassmasters- Fishing tournament roads, parking, support building improvements, August 2005
- Walla Walla District, Lucky Peak Lake and Boise Project Board of Control- Toilet, staircase, parking lot installation and angler access improvements, August 2009
- Savannah District, Hartwell Lake and the Hartwell Ramp Betterment Partners- Boat ramp extension, December 2008
- Tulsa District, Keystone Lake and Friends of Lake Keystone - Campground improvements/50 amp service upgrades, October 2012
- Walla Walla District, Dworshak Dam and Reservoir and the Orofino Chamber of Commerce- Pack It In/Pack It Out litter bag program, April 2011
- MVS: Rend Lake and Vern Disc Golf Club- Design and installation of disc golf course, August 2013
- NWK: Pomme de Terre Lake and NWTF, MO Dept of Conservation, Flambeau Outdoors, Lucas Oil Speedway, Pomme de Terre Arms, VFW, 4-H, and local high schools- Archery Range, 2014
- New England District, Franklin Falls Dam and Friends of Franklin Falls Disc Golf - Disc golf course, April 2016

Environmental Stewardship

- Walla Walla District, Mill Creek Project and Walla Walla County Conservation District- Installation of fish screen devices, November 2008
- Portland District, Dexter Lake and the City of Lowell, Oregon- Wetland enhancement and habitat improvements, December 2009
- Kansas City District, Smithville Lake and Clay County- Aquatic habitat improvements and shoreline protection, 2009
- Savannah District, J. Strom Thurmond Lake and Quail Unlimited- Longleaf pine restoration and bobwhite quail habitat improvements, March 2010
- St. Louis District, Rend Lake and Rend Lake Lunker Busters- Fishing line recycling containers, August 2013
- MVS: Wappapello Lake and Wayne County Sportsman Association- Wildlife management, February 2015

Interpretation

- Omaha District, Lake Sakakawea and the Williston Convention and Visitor's Bureau- Installation and expansion of Interpretive and Visitor Facilities, March 2005
- Walla Walla District Lucky Peak Project and The Foote Park Project - Development of historical interpretive area, May 2016
- NWS: Chittenden Locks and Discover Your Northwest and the Corps Foundation- Improvements to LWSC Fish Ladder
- MVP: MS Headwaters Project and MS Headwaters Board - interpretive signs, April 2021

Accessibility Improvements

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

How to Keep Your RM and OC Happy

- Involve Office of Counsel and Resource Management 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!

REVIEW

True or False:

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

True

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).

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)

Review

True or False:

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

False

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.

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.

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.

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 – 30 min

Challenge Partnership Project Exercise

I. Brainstorm

Developing a Proposal for Your Own Project/District

Name of Lake or Project: _____

Partnership Project to be undertaken: _____

_____

1. Potential Partners: _____
   _____
   _____
   _____

2. How does this project interest, involve, or benefit the partner(s)? What's in it for them? _____
   _____
   _____
   _____
   _____

3. Summary statement of Partnership Project:
   _____
   _____

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 funded project.