

**MODEL MOA  
FOR ENVIRONMENTAL SUPPORT TO  
U.S. AGENCIES**

This Memorandum of Agreement (MOA) is intended to serve as a generic model for developing umbrella MOAs governing environmental support to be provided by the Department of the Army to other (non-Department of Defense, non-EPA-Superfund) federal agencies. This generic MOA may be amended to include supplemental provisions necessary to reflect details specific to the ORDERING AGENCY or the project. MOAs must be reviewed by the appropriate Office of Counsel.

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MEMORANDUM OF AGREEMENT  
BETWEEN  
THE [ORDERING AGENCY]  
AND  
THE DEPARTMENT OF THE ARMY

ARTICLE I - PURPOSE AND AUTHORITY

This Memorandum of Agreement ("MOA") is entered into by and between the U.S. Department of the Army ("DA") and the [ORDERING AGENCY ("ACRONYM")] ("the parties") for the purpose of establishing a mutual framework governing the respective responsibilities of the parties for the provision of DA goods and services relating to environmental support. This MOA is entered into pursuant to the Economy in Government Act (31 U.S.C. 1535) and/or [statement of statutory authority for [ACRONYM] to execute the program/work].

ARTICLE II - SCOPE

Goods and services which the DA may provide under this MOA include, but are not limited to, the following: [insert detailed description of scope of DA goods or services, including brief description of [ACRONYM] program/work if appropriate (NOTE: may include technical assistance on behalf of [ACRONYM] in its relations with regulatory agencies or other third parties, also refer to Guidance on Identifying and Classifying Environmental Work within the non-Superfund Support for Others Program," from Chief, CEMP-RO to all divisions.)

These goods and services are intended to assist the [ACRONYM] in meeting its requirements under the Resource Conservation and Recovery Act ("RCRA") (42 U.S.C. 6901-6991h) and the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. 9601-9675), and other environmental statutes.

Nothing in this MOA shall be construed to require the [ACRONYM] to use the DA or to require the DA to provide any goods or services to the [ACRONYM], except as may be set forth in Support Agreements ("SAs").

ARTICLE III - INTERAGENCY COMMUNICATIONS

To provide for consistent and effective communication between the DA and the [ACRONYM], each party shall appoint a Principal Representative to serve as its central point of contact on matters relating to this MOA. Additional representatives may also be appointed to serve as points of contact on SAs.

ARTICLE IV - SUPPORT AGREEMENTS (AND IMPLEMENTING ARRANGEMENTS)

In response to requests from the [ACRONYM] for DA assistance under this MOA, the DA and the [ACRONYM] shall conclude mutually agreed upon written SAs. . Those SAs must be on either Engineer Form 4914-R or similar document containing the same information as Department of Defense Form 1144. SAs must include:

- a detailed scope of work statement;
- schedules;
- funding arrangements (including whether payment shall be made in advance or by reimbursement) (also must be consistent with Article VI Funding requirements) ;
- the amount of funds required and available to accomplish the scope of work as stated above;
- the [ACRONYM]'s fund citation and the date upon which the cited funds expire for obligation purposes; and,
- identification of individual project managers.

[The following must be addressed in each SA under this MOA (or in mutually agreed-upon written implementing arrangements), and signed by each party's Principal Representative:

- identification of types of contracts to be used (if known);
- types and frequencies of reports;
- identification of which party is to be responsible for government-furnished equipment; contract administration; records maintenance; rights to data, software, and intellectual property; and contract audits;
- procedures for amending or modifying the SA; and,
- such other particulars as are necessary to describe clearly the obligations of the parties with respect to the requested goods and services.]

Goods or services shall be provided under this MOA only after an appropriate SA has been signed by a representative of each party authorized to execute that SA. Upon signature by each party's representative, a SA shall constitute a valid Economy in Government Act order. In the case of conflict between this MOA and a SA or an implementing arrangement, this MOA shall control.

## ARTICLE V - RESPONSIBILITIES OF THE PARTIES

### A. Responsibilities of the Department of the Army

1. The DA shall provide the [ACRONYM] with goods or services in accordance with the purpose, terms, and conditions of this MOA and with specific requirements set forth in SAs and implementing arrangements.

2. The DA shall ensure that only authorized DA representatives sign SAs and implementing arrangements.

3. The DA shall use its best efforts to provide goods or services either by contract or by

in-house effort.

4. The DA shall provide detailed periodic progress, financial and other reports to the [ACRONYM] as agreed upon in the SA or implementing arrangements. Financial reports shall include information on all funds received, obligated, and expended, and on forecast obligations and expenditures.

5. The DA shall inform the [ACRONYM] of all contracts entered into under each SA.

**B. Responsibilities of the [ACRONYM]**

1. The [ACRONYM] shall certify, prior to the execution of each SA under this MOA, that the SA complies with the requirements of the Economy in Government Act.

2. The [ACRONYM] shall pay all costs associated with the DA's provisions of goods or services under this MOA and shall certify, at the time of signature of a SA, the availability of funds necessary to accomplish that SA.

3. The [ACRONYM], as [owner/generator and/or generator] shall retain legal liability, as between the [ACRONYM] and the DA and its contractors, for all hazardous substances and wastes associated with work under this MOA.

4. The [ACRONYM] shall ensure that only authorized [ACRONYM] contracting officers sign SAs [and that only authorized [ACRONYM] representatives sign implementing arrangements].

5. The [ACRONYM] shall draft SAs, to include scope of work statements.

6. The [ACRONYM] shall obtain for the DA all necessary real estate interests and access to all work sites and support facilities, and shall perform all coordination with and obtain any permits from state and local agencies, as necessary during the execution of each SA.

**ARTICLE VI - FUNDING**

The [ACRONYM] shall pay all costs associated with the DA's provision of goods or services under this MOA. For SAs for work estimated to cost more than \$250,000 total in contracts and in-house services or \$50,000 in contracts, the DA shall bill the [ACRONYM] in advance and the [ACRONYM] shall provide the necessary funds in advance. For SAs for work valued at less than these amounts, the [ACRONYM] may reimburse the DA for the goods or services. For these lesser requirements, the DA shall bill the [ACRONYM] monthly for costs incurred, using Standard Form ("SF") 1080, Voucher for Transfers between Appropriations and/or Funds, and the [ACRONYM] shall reimburse the DA within 30 days of receipt of an SF 1080.

If the DA forecasts its actual costs under a SA to exceed the amount of funds available

under that SA, it shall promptly notify the [ACRONYM] of the amount of additional funds necessary to complete the work under that SA. The [ACRONYM] shall either provide the additional funds to the DA, require that the scope of work be limited to that which can be paid for by the then-available funds, or direct termination of the work under that SA.

Within 90 days of completing the work under a SA, the DA shall conduct an accounting to determine the actual costs of the work. Within 30 days of completion of this accounting, the DA shall return to the [ACRONYM] any funds advanced in excess of the actual costs as then known, or the [ACRONYM] shall provide any additional funds necessary to cover the actual costs as then known. Such an accounting shall in no way limit the [ACRONYM]'s duty in accordance with Article X to pay for any costs, such as contract claims or other liability, which may become known after the final accounting.

#### ARTICLE VII - APPLICABLE LAWS

This MOA and all documents and actions pursuant to it shall be governed by the applicable statutes, regulations, directives, and procedures of the United States. Unless otherwise required by law, all contract work undertaken by the DA shall be governed by DA policies and procedures.

#### ARTICLE VIII - MANIFESTS AND RELATED DOCUMENTS

DA personnel are authorized to execute all manifests and related documents, federal and state, on behalf of the [ACRONYM] that pertain to work performed under this MOA by the DA or its contractors. DA personnel shall annotate the manifests and related documents with the phrase "On behalf of [ORDERING AGENCY]." If applicable state regulations do not permit the DA to sign such documents on behalf of [ACRONYM], the DA shall contact the [ACRONYM] representative for specific guidance. Upon fiscal and physical completion of work under a SA, the DA shall forward manifests and related documents to the [ACRONYM]. The DA shall retain contract-related documents.

#### ARTICLE IX - CONTRACT CLAIMS AND DISPUTES

All claims and disputes by contractors arising under or relating to contracts awarded by the DA shall be resolved in accordance with Federal law and the terms of the individual contract. The DA shall have dispute resolution authority for these claims. Any contracting officer's final decision may be appealed by the contractor pursuant to the Contract Disputes Act of 1978 (41 U.S.C. § 601-613). The Armed Services Board of Contract Appeals (ASBCA) is designated as the appropriate board of contract appeals. In lieu of appealing to the ASBCA, the contractor may bring an action directly to the United States Court of Federal Claims.

The DA shall be responsible for handling all litigation involving disputes and appeals, and for coordinating with the Department of Justice as appropriate. The DA shall notify the [ACRONYM] of any such litigation and afford the [ACRONYM] an opportunity to review and comment on the litigation proceedings and any resulting settlement negotiations.

## ARTICLE X - DISPUTE RESOLUTION

The parties agree that, in the event of a dispute between the parties, the [ACRONYM] and the DA shall use their best efforts to resolve that dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties. The parties agree that, in the event such measures fail to resolve the dispute, they shall refer it for resolution to the Office of Management and Budget [or such other entity as may be appropriate, such as Office of the Secretary of Defense for inter-service MOAs].

## ARTICLE XI - RESPONSIBILITY FOR COSTS

If liability of any kind is imposed on the United States relating to the DA's provision of goods or services under this MOA, the DA will accept accountability for its actions, but the [ACRONYM] shall remain responsible as the program proponent for providing such funds as are necessary to discharge the liability, and all related costs. This obligation extends to all funds legally available to discharge this liability, including funds that may be made legally available through transfer, reprogramming or other means. Should the [ORDERING AGENCY] have insufficient funds legally available, including funds that may be made legally available through transfer, reprogramming or other means, they remain responsible for seeking additional funds from Congress for such purpose, although nothing in this MOA shall be construed to imply that Congress will appropriate funds sufficient to meet the liability.

## ARTICLE XII - PUBLIC INFORMATION

Justification and explanation of the [ACRONYM]'s programs before Congress and other agencies, departments, and offices of the federal Executive Branch shall be the responsibility of the [ACRONYM]. The DA may provide, upon request, any assistance necessary to support the [ACRONYM]'s justification or explanations of the [ACRONYM]'s programs conducted under this MOA. In general, the [ACRONYM] is responsible for all public information regarding the [ACRONYM]'s projects. The DA may make public announcements and respond to all inquiries relating to the ordinary procurement and contract award and administration process. The [ACRONYM] or the DA shall make its best efforts to give the other party advance notice before making any public statement regarding work contemplated, undertaken, or completed pursuant to SAs under this MOA.

## ARTICLE XIII - MISCELLANEOUS

### A. Other Relationships or Obligations

This MOA shall not affect any pre-existing or independent relationships or obligations between the [ACRONYM] and the DA.

**B. Survival**

The provisions of this MOA which require performance after the expiration or termination of this MOA shall remain in force notwithstanding the expiration or termination of this MOA.

**C. Severability**

If any provision of this MOA is determined to be invalid or unenforceable, the remaining provisions shall remain in force and unaffected to the fullest extent permitted by law and regulation.

**ARTICLE XIV – AMENDMENT, MODIFICATION AND TERMINATION**

This MOA may be modified or amended only by written, mutual agreement of the parties. Either party may terminate this MOA by providing written notice to the other party. The termination shall be effective upon the sixtieth calendar day following notice, unless a later date is set forth. In the event of termination, the [ACRONYM] shall continue to be responsible for all costs incurred by the DA under this MOA and for the costs of closing out or transferring any on-going contracts.

**ARTICLE XV - EFFECTIVE DATE**

This MOA shall become effective when signed by both the [ACRONYM] and the DA.

[ORDERING AGENCY]

U.S. Department of the Army (or  
appropriate USACE official)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Position

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