

6/92

MEMORANDUM OF AGREEMENT
BETWEEN
DEPARTMENT OF COMMERCE
AND
UNITED STATES ARMY CORPS OF ENGINEERS

Article I. PURPOSE AND AUTHORITY

This Memorandum of Agreement (MOA) is entered into by and between the United States Army Corps of Engineers (USACE) and the Department of Commerce (DOC) for the purpose of establishing respective responsibilities of the parties for the sharing of software for financial management systems and such other related work as may be agreed upon in the future. This MOA is entered into pursuant to the Economy in Government Act, 31 U.S.C. 1535, and 10 U.S.C. 3036(d). The internal DOC control number for this MOA is AAAA-7160-2-00047.

Article II. SCOPE

The USACE has invested four years and approximately \$8 million dollars in the development of the Corps of Engineers Financial Management System (CEFMS). This MOA addresses the responsibilities and commitments of the USACE to provide CEFMS software to the DOC, to adapt that software to their needs, and to aid in their systems development. The DOC will provide support and resources to these USACE efforts.

Article III. INTERAGENCY COMMUNICATIONS

To provide for consistent and effective communications between the USACE and the DOC, the USACE and the DOC shall each appoint a representative to discuss and consider activities that may be pursued under this MOA as further described in Articles IV and X below.

The USACE and the DOC representatives shall coordinate all requests for assistance under this MOA and shall serve as the points of contact between the USACE and the DOC on matters relating to this MOA.

The USACE and the DOC representatives shall conclude mutually agreed upon task orders using Engineer Form 4914-R pertaining to the requests. Services will be furnished in accordance with the terms and conditions of such task orders. The task orders shall describe in detail the scope of the services to be provided, schedules, necessary funding arrangements, individual project managers or other such responsible party, and such other particulars as are necessary to describe clearly the obligations of the parties with respect to the requested services.

The authorized representative of each party shall agree to the task order prior to the initiation of services by either party.

Article IV. STANDING COMMITTEE

A Joint Standing Committee is hereby established whose members are authorized to act as authorized agents of their respective organizations in the implementation of this agreement. The committee will be chaired by the HQUSACE Chief, Finance and Accounting Division, who is the senior USACE representative on this committee. The DOC designates the Director for Financial Systems, as the DOC senior representative on the committee. These two individuals will be responsible for selecting the other pertinent members from each respective organization. The committee will meet at the call of the chairman, based upon the needs expressed by either party to the agreement. Any matters that cannot be settled at the committee level will be raised to the respective command channels of the above mentioned senior representatives of the standing committee for resolution. To ensure compliance with the prohibition against interagency funding of committees and as set forth in Article VI, the DOC will provide funding resources for all costs associated with the USACE's provision of assistance. The committee will address concerns of either party of this agreement, regarding, but not limited to the items listed below.

- a. Issues arising from the implementation of this MOA.
- b. Issues related to the release of the source code to the DOC.
- c. Issues arising from evolving software having an impact on services, costs, or options provided under this agreement.
- d. Issues arising from changes in required services to include the identification of work required to complete the development of CEFMS.
- e. Issues pertaining to the operations and maintenance of both the Corps and the DOC versions of CEFMS and other configuration management issues.
- f. Forecasting and analyzing future costs, budgets, and workload to assure both parties have sufficient time to respond.
- g. Issues related to charges or fees for support provided under the terms of this agreement.

- h. Joint reports to agency/department officials of issues and progress under the terms of this agreement.
- i. Issues related to change or to termination of this agreement.

Article V. PROVISIONS OF ASSISTANCE

Nothing in this MOA is intended to affect ongoing arrangements between the parties. Nothing in this MOA can be or should be construed to require the DOC to seek the services of the USACE, or to require the USACE to accept assignments from the DOC. Nothing in this agreement shall be interpreted to require the expenditure of any current or future funds appropriated for the USACE or the DOC purposes.

- A. Responsibilities of the U.S. Department of Commerce:
 - (1) Provide the USACE the necessary personnel and funding mutually agreed to by both parties of this MOA, for the execution of the terms specified herein.
 - (2) Provide the USACE feedback and recommendations regarding lessons learned in applying CEFMS software within the DOC.
 - (3) Administer the development and application of CEFMS software within the DOC.
 - (4) Participate on the Joint Standing Committee, as described in Article IV.
- B. Responsibilities of the U.S. Army Corps of Engineers:
 - (1) Make developed CEFMS software available to the DOC at no cost.
 - (2) Assist the DOC in the adaptation of CEFMS software to the DOC needs.
 - (3) Provide advice and training to the DOC personnel for the implementation and fielding (as agreed upon) of CEFMS software throughout the DOC.

- (4) Provide the DOC enhancements and updates of CEFMS software, documentation, and project plans as they are developed.
- (5) Provide assistance to the DOC through participation on the Joint Standing Committee, as described below.

Article VI. FUNDING

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The DOC will provide funding resources for all costs associated with the USACE's provision of assistance. All funding transfers will be accomplished by using SF 1080, Voucher for Transfer Between Appropriations or Funds. The SF 1080 will be prepared and forwarded by HQUSACE, Attn: CERM-FR, 4801 University Square, Suite 1, Huntsville, Al 35816-3431 and forwarded to the Director, Office of Financial Management, Room 6327, 14th and Constitution Avenue, NW, Washington, DC 20230. Funding may also be accomplished by a direct fund cite from the DOC. If the actual cost to the USACE is forecast to exceed the amount of funds available, the USACE shall promptly notify the DOC of the amount of the additional funding necessary to pay for the assistance. The DOC shall either provide the additional funds to the USACE, or require that the scope of the assistance be limited to that which can be financed by the available funds, or direct termination of the project. Upon furnishing the assistance contemplated by the task orders, the USACE shall conduct a final accounting within 120 days of task completion to determine the actual costs of the assistance provided. Within 90 days of the final accounting, the USACE shall return any funds advanced by the DOC in excess of the actual costs.

Article VII. APPLICABLE LAWS

The USACE shall furnish all assistance under this MOA in accordance with applicable U. S. laws and regulations. Unless otherwise required by law, all contract work undertaken by the USACE shall be performed in accordance with Department of Defense/Department of the Army procurement and claims policies and procedures. The parties agree that the USACE will comply with applicable DOD, DA and USACE regulations on use and dissemination of software.

Article VIII. TECHNOLOGY TRANSFER

It is understood and agreed that the parties to this MOA will actively pursue opportunities for transfer of any technology developed pursuant to this MOA to the private sector as required by the Stevenson-Wydler Technology Innovation Act of 1980, as amended and Executive Orders 12591 and 12618.

Article IX. RECORDS AND REPORTS

The USACE shall establish and maintain records and receipts of the expenditure of all funds provided by the DOC. Records shall be maintained in sufficient detail to permit identification of the nature of expenditures made by the USACE and shall be made available for inspection by officials of the DOC upon request.

The USACE shall provide the DOC with project progress, financial, and related status reports on tasks agreed upon in the task orders, including providing financial reports on all funds received, obligated, and expended. Frequency of reports will be agreed upon in subsequent task orders.

Article X. PUBLIC INFORMATION

Justification and explanation of the DOC programs before Congress and the Executive Branch shall be the responsibility of the DOC. The USACE will provide, upon request, information to support contacts with Congress and the Executive Branch. The USACE will make public announcements and respond to all inquiries relating to the ordinary procurements and contract award and administration process. The DOC and the USACE mutually agree to provide any proposed press releases or other public affairs information related to the efforts pursuant to this MOA to the other party (the USACE or the DOC) for review and concurrence before release.

Article XI. INTELLECTUAL PROPERTY PROTECTION

The USACE shall have the sole right and responsibility to apply for, obtain, and maintain protection in the United States or other countries for technology or intellectual property developed pursuant to this MOA.

Article XII. ROYALTIES

The USACE shall retain any royalties or other income from any such protection to the extent allowed by law.

Article XIII. LICENSES

The USACE may grant nonexclusive, exclusive, or partially exclusive licenses under any form of protection obtained, royalty-free or for royalties or other consideration, and on such terms and conditions determined by the USACE as appropriate in the public interest.

Article XIV. NO WARRANTY OR DAMAGES

The USACE makes no express or implied warranty as to any matter whatsoever regarding the CEFMS, and shall not be responsible for any damages of any kind resulting from utilization of software developed by USACE.

Article XV. EFFECTIVE DATE, AMENDMENT, AND TERMINATION

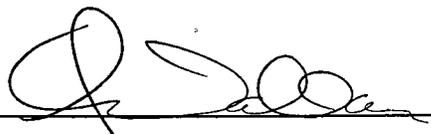
- a. This MOA is effective and activated upon the date of the last signature of the parties.
- b. This MOA may be amended or modified by mutual consent of all the parties. Such amendments shall be in writing and signed by all the parties to this MOA. Upon request by any of the parties, the parties shall review this MOA to assure that it continues to reflect the appropriate understandings and procedures necessary for current needs and capabilities. This MOA will remain in effect until superseded or terminated by mutual agreement, in writing. Either party wishing to terminate this MOA will submit written notification 60 calendar days prior to the effective date of termination.



Deputy Chief Financial Officer
Office of Financial Management
Department of Commerce

6/5/92

Date



Director
Directorate of Resource
Management
US Army Corps of Engineers

6/5/92

Date