

3/92

MEMORANDUM OF AGREEMENT
BETWEEN THE
UNITED STATES ARMY CORPS OF ENGINEERS
AND THE
NATIONAL PARK SERVICE, SOUTHEAST REGION

PURPOSE AND AUTHORITY

This Memorandum of Agreement (MOA) is entered into by and between the United States Army Corps of Engineers (COE) and the National Park Service, Southeast Region (NPS) for the purpose of establishing respective responsibilities of the parties for delivering engineering, construction, and real estate services, 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).

INTERAGENCY COMMUNICATIONS

To provide for consistent and effective communication between the COE and the NPS, the COE and the NPS shall each appoint field representatives to discuss and consider activities that may be pursued under this MOA.

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

The COE and the NPS field representatives shall conclude mutually agreed upon individual support agreements (ISAs) pertaining to the requests. ISAs shall conform to NPS-20 Guidelines. Services will be furnished in accordance with the terms and conditions of such ISAs. The ISAs shall describe in detail the scope of the services to be provided, schedules, necessary funding arrangements, individual project managers, 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 ISA prior to the initiation of services by the COE.

PROVISION 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 NPS to use the services of the COE, or to require the COE to accept assignments from the NPS.

A. Responsibilities of the United States Army Corps of Engineers

The COE may provide the NPS appropriate services as may be requested. Such services shall be provided in accordance with the purpose, terms, and conditions of this MOA, with specific responsibilities set forth in ISAs that specify one or more individual tasks. The COE shall use its best efforts to provide the NPS with the technical services necessary to achieve project objectives within budget and on schedule. Support will be provided to the NPS through a combination of contract and in-house effort. The COE shall inform the NPS of all contracts entered into under this MOA. Periodic financial and project status reports shall be provided by the COE pursuant to the agreed upon terms of each subsequent ISA.

B. Responsibilities of the National Park Service, Southeast Region

The NPS shall have responsibility for requesting ISAs and developing initial project concepts and creating the scope of work statement. The NPS shall assist the COE in obtaining access to construction sites, rights of entry and support facilities as required. The NPS shall make available to the COE any Government furnished material and equipment available to expedite construction.

FUNDING

The NPS will provide funding resources for all costs associated with COE's provision of assistance. Major funding transfers, of \$250,000 or more, will be accomplished by using SF 1151, Nonexpenditure Transfer Authorization. The SF 1151 will be prepared and forwarded to CDR HQUSACE (CERM-FC) Washington, D.C. 20314-1000 for allotment. For individual taskings less than \$250,000 in total or less than \$500,000 in contracts, funding will be provided by reimbursable order with billings to be made either by SF 1080, Voucher for Transfers Between Appropriations and/or Funds, or SF 1081, Voucher and Schedule of Withdrawals and Credits.

Funding may also be accomplished by use of a direct fund cite from the NPS for work performed by contract. If the actual cost to the COE is forecast to exceed the amount of funds available, the COE shall promptly notify the NPS of the amount of the additional funding necessary to pay for the assistance. The NPS shall either provide the additional funds to the COE, 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 ISAs, the COE shall conduct a final accounting within 120 days of the project completion to determine the actual costs of the assistance provided. The COE shall return any funds advanced by the NPS in excess of the actual costs within 90 days of the final accounting.

APPLICABLE LAWS

The COE shall furnish all assistance under this MOA in accordance with applicable U.S. laws and regulations, and any applicable U.S. executive agreements. Unless otherwise required by law, all contract work undertaken by the COE shall be performed in accordance with the COE procurement and claims policies and procedures.

RECORDS AND REPORTS

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

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

CLAIMS AND DISPUTES

All claims submitted by contractors arising under or relating to contracts awarded by the COE shall be resolved in accordance with United States law and the terms of the individual contract. The COE has dispute resolution authority for these claims. Any contracting officer's final decision pursuant to such a claim may be appealed by the contractor pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 601-613). The Corps of Engineers Board of Contract Appeals (ENG BCA) is designated as the appropriate board of contract appeals.

In lieu of appealing to the ENG BCA, the contractor may bring an action directly to the United States Claims Court. The COE shall be responsible for litigating all such appeals. The COE shall consult with the NPS regarding any settlement negotiations.

The COE shall notify the NPS of meritorious claims or appeals and shall submit requests to the NPS for funds to cover such claims or appeals. The NPS shall promptly provide such funds as are necessary to pay the costs of meritorious claims or appeals.

PUBLIC INFORMATION

Justification and explanation of the NPS programs before Congress and the Executive Branch shall be the responsibility of the NPS. The COE will provide, upon request, information to support contacts with Congress and the Executive Branch. The COE will make public announcements and respond to all inquiries relating to the ordinary procurement and contract award and administration process.

EFFECTIVE DATE, AMENDMENT AND TERMINATION

This MOA is effective upon the date of the last signature by the parties and shall remain in effect for a period of five years. This MOA may be modified or amended only by written agreement.

Either the COE or NPS may terminate this MOA before the expiration date by providing sixty calendar days written notice. In the event of termination, the COE and the NPS shall consult with each other concerning all claims for termination costs; however, the NPS shall continue to be responsible for all costs incurred by the United States under this MOA, or under the ISAs, and for the costs of closing out or transferring any ongoing contracts.

U.S. Army Corps of Engineers

By: Stanley G. Genega

Stanley G. Genega
Brigadier General, U.S. Army
Division Engineer
South Atlantic

Date: 17 Mar 92

National Park Service

By: E. W. Ogle
FOR

James W. Coleman, Jr.
Regional Director
Southeast Region

Date: 3/27/92