

MEMORANDUM OF AGREEMENT  
BETWEEN THE AGENCIES OF THE RURAL DEVELOPMENT  
MISSION AREA, U.S. DEPARTMENT OF AGRICULTURE,  
AND THE  
U.S. DEPARTMENT OF ARMY

SUBJECT: Technical Support for Environmental Compliance Activities of the Agencies of the Rural Development Mission Area, U.S. Department of Agriculture.

1. PURPOSE:

Subsequent to the October 1994 reorganization of the U.S. Department of Agriculture (USDA), this Memorandum of Agreement (MOA) replaces the 1991 MOA with the former Farmers Home Administration. This MOA applies to those agencies administered by the Under Secretary for Rural Development (RD), U.S. Department of Agriculture (USDA). These agencies include: Rural Utilities Service (RUS); Rural Housing service (RHS); and Rural Business/Cooperative Service (RBS). It continues to provide a framework for the U.S. Department of the Army (DA), acting through the U.S. Army Corps of Engineers (USACE), to furnish assistance to the Agencies listed above in connection with the environmental compliance activities and any environmental engineering services associated with the Agencies' projects and programs. This MOA is entered pursuant to 31 U.S.C. 1535, and 10 U.S.C. 3036(d).

2. SCOPE:

a. The USACE will provide a broad range of environmental and engineering services to RUS, RHS, or RBS in meeting any and all environmental compliance requirements.

b. Nothing in this MOA shall be construed to require RUS, RHS, or RBS to use the services of the USACE, nor to require the USACE to accept assignments from RUS, RHS, or RBS.

3. RESPONSIBILITIES:

a. RUS, RHS, or RBS.

(1) The RUS, RHS or RBS National Offices (NO) or the designated RUS, RHS, or RBS representative shall be responsible for determining the specific services to be requested from the USACE, and will provide USACE with written statements fully describing the nature of the required environmental service, including implementing instructions and other relevant guidance.

(2) RUS, RHS, or RBS with assistance from USACE shall retain responsibility for coordinating discussions and negotiations with the appropriate Federal, State, and local regulatory agencies. With support from USACE, RUS, RHS, or RBS, as required by law, shall also be responsible for all notification, community relations, administrative records and permitting requirements, as well as State and Federal involvement requirements for all actions.

(3) RUS, RHS, or RBS shall be responsible for public affairs as further specified in paragraph 10 of this MOA.

(4) RUS, RHS, or RBS shall provide a point of contact authorized to work with the USACE to facilitate funding obligations and all the rights and clearances (e.g., site access; permitting; real estate agreements) necessary for the USACE to perform unhindered site activities, including rapid response actions.

(5) RUS, RHS, and RBS shall provide, on a temporary basis, any necessary office space, parking, and storage space for administrative files or sampling equipment as may be required during the operations of a specific project.

(6) RUS, RHS, or RBS shall provide other information or requirements deemed necessary for the USACE to perform any environmental compliance activities at RUS, RHS, or RBS project sites.

(7) RUS, RHS, or RBS' National Offices shall retain responsibility for overall management and implementation of the MOA. Such responsibility includes, but is not limited to: definition of the MOA scope; establishment of priorities; and development of guidance for environmental compliance implementation. RUS, RHSL or RBS' National Offices may delegate primary management responsibility for specific projects to any designated RUS, RHS, or RBS representative.

b. USACE.

(1) USACE shall be responsible for providing assistance requested in writing and funded by RUS, RHS, or RBS. USACE's responsibilities may include:

(a) Providing management services for remedial investigations and/or actions as specified by RUS, RHS, or RBS.

(b) Conducting RCRA and CERCLA studies, Remedial Designs (RD), Remedial Actions (RA) and Removal Actions.

(c) Providing Rapid Response action at RUS, RHS, or RBS sites in accordance with paragraph 8.

(d) Providing technical assistance related to the planning, engineering, design and construction of environmental restoration projects at RUS, RHS, or RBS sites.

(e) Performing technical reviews of reports pertaining to environmental restoration activities at RUS, RHS, or RBS sites, including hazardous waste studies, RD, and other technical products prepared by contractors outside RUS, RHS, or RBS.

(f) Providing professional and technical assistance at meetings or regulatory conferences with Federal, State, and local regulators to address RUS, RHS, or RBS environmental responsibilities, as well as assisting RUS, RHS, or RBS in the negotiation of all matters relating thereto, including cost allocations associated with Potentially Responsible Parties (PRP) in environmental restoration projects.

(g) Furnishing other environmental support including, research and development, training, procurement, cost estimation, permitting, developing work plans, and community relations services.

(h) Providing contractor and field quality assurance/quality control (QA/QC).

(i) Notifying RUS, RHS, or RBS when on-site work is to begin and when such work has been completed.

(j) USACE shall sign hazardous waste manifests on the behalf of RUS, RHS, or RBS at all projects for hazardous wastes leaving the project site. Generator responsibility for all manifested waste will rest with RUS, RHS, or RBS.

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(k) Providing in-house or contractual support for any environmental reviews or activities related to National Environmental Policy Act.

(1) Providing any environmental and engineering reviews as requested by RUS, RHS, or RBS for any RUS, RHS, or RBS project.

(2) Support will be provided to RUS, RHS, or RBS through a combination of contract and in-house efforts. RUS, RHS, or RBS reserves the right to review, consult and make recommendations on all solicitations before they are issued. In addition, for outside contracts negotiated by USACE for RUS, RHS, or RBS projects, RUS, RHS, or RBS may designate a representative to participate in the formal source selection process. Unless otherwise required by law, all contract work undertaken by USACE shall be performed in accordance with Department of Army (DA) and Federal Acquisition Regulations procurement policies and procedures.

(3) USACE is responsible for performing all tasks under this MOA in accordance with applicable law. If there is a failure by USACE to comply with applicable law resulting in liability imposed on the United States, USACE will accept accountability for its actions and will support RUS, RHS, or RBS requests for additional appropriations as required.

#### PROCEDURE:

a. RUS, RHS, or RBS Nation offices shall submit task orders under this MOA to Headquarters USACE (HQUSACE) (ATTENTION: CEMP-R). Such task orders shall be in writing and shall describe the scope of the services desired and the proposed location of the project or site to which the services relate and shall designate a RUS, RHS, or RBS authorized representative for purposes of further communication on all matters relating to the request. The RUS, RHS, or RBS National Offices shall be responsible for the approval and obligation of all funds as part of this agreement.

b. Upon receipt of a task order, USACE shall provide the RUS, RHS, or RBS authorized representative, with an acknowledgment in writing of the task order and shall designate for purposes of further communication an authorized representative for USACE.

c. RUS, RHS, or RBS' task order shall describe in detail the scope of the assistance to be provided, necessary generalized funding arrangements, and such other particulars as are necessary to describe clearly the obligations of the parties with respect to the requested assistance.

d. To minimize response time, all rapid response project requests shall be submitted directly to CEMRD-MD-RA with copy furnished to HQUSACE (ATTN: CEMP-R) (see Appendix A).

#### 5. MANAGEMENT ARRANGEMENTS:

HQUSACE shall be responsible for managing the support provided to RUS, RHS, or RBS and insuring consistency with the policy directives of the Assistant Secretary of the Army (Civil Works). HQUSACE (CEMP-R) will serve as the point of contact (POC) for all RUS, RHS, or RBS requests for support. Work normally will be performed by the USACE Major Subordinate Command (MSC) having geographic responsibility over the site which is the subject of the environmental compliance activity. USACE will task the appropriate MSC or Field operating Activity (FOA) and coordinate with RUS, RHS, or RBS' National Offices and the designated RUS, RHS, or RBS representative.

#### 6. PROGRAM FUNDING:

a. RUS, RHS, or RBS shall fund all costs of assistance provided under this MOA. Actual funding sources and arrangements shall be addressed by RUS, RHS, or RBS and USACE after initial detailed cost estimates are supplied to RUS, RHS, or RBS. Funds shall be provided to USACE by

RUS, RHS, or RBS in installments for specific phases of the work to be agreed upon by USACE and RUS, RHS, or RBS in advance of USACE incurring any obligation under this MOA.

b. The necessary funds required to complete specific tasks will be identified by USACE. If the actual cost to the USACE is forecast to exceed the amount of funds so provided, USACE shall promptly notify RUS, RHS, or RBS in writing of the amount of additional funding necessary to pay for the assistance requested. RUS, RHS, or RBS shall either provide additional funds for the assistance, require that the scope of the assistance be limited to that which can be financed by the available funds, or direct termination of the assistance. Upon furnishing the assistance contemplated by a support agreement, the USACE shall conduct a final accounting to determine the actual costs of the assistance provided. Any funds remaining upon termination or completion of the assistance shall be returned to RUS, RHS, and RBS, following settlement of all total costs incurred to date.

#### 7. REPORTING:

USACE will provide periodic status reports to RUS, RHS, or RBS' National Offices and the designated state representative on a mutually agreed to schedule for tasks assigned to USACE, including financial reports on all funds received, obligated, and expended.

#### 8. RAPID RESPONSE ACTION:

a. Upon request from RUS, RHS, or RBS, USACE will review and approve eligible and appropriate Rapid Response (RR) projects within three working days of receipt of the completed Rapid Response Project Request Form (Appendix A).

b. To be eligible for Rapid Response action, the related project must meet one of the following criteria for Rapid Response:

- (1) In the absence of prompt response action, a release of a regulated substance at a site poses a potential imminent threat to human health and/or the environment;
- (2) The site requires a immediate response action to meet regulatory constraints (e.g., Notice of Violation; Site Complaint; Consent Order; Correction Agreement);
- (3) The source(s) of a release at a site requires an immediate removal action;
- (4) The response/removal action is as defined in the National Contingency Plan (NCP).

c. If a project does not meet the Rapid Response criteria, USACE will recommend an alternative means to accomplish the project.

d. All Rapid Response activities shall be in full compliance with Federal, State and local environmental regulations.

#### 9. CONTRACT CLAIMS AND APPEALS:

USACE shall be responsible for all contract claims and appeals related to US@CE-let contracts. USACE shall secure RUS, RHS, or RBS' consultations and recommendations prior to settlement of any claims and appeals. RUS, RHS, or RBS shall provide the USACE with any funds that may be necessary to pay the costs of meritorious claims or appeals. USACE shall advise RUS, RHS, or RBS' National Offices and the Office of General Counsel, USDA, concerning all pending claims related to the MOA.

#### 10. DISPUTE RESOLUTION:

The parties agree that in the event of disputes between the parties, that both USACE and RUS, RHS, or RBS will use their best efforts to resolve those disputes in an informal fashion through consultation and communication. The parties agree that in the event that informal consultation and communication fail to resolve the dispute, that the dispute shall be referred to the Office of Management and Budget.

#### 11. PUBLIC INFORMATION COORDINATION:

Decisions on disclosure of information to the public regarding actions taken under this MOA will be made in accordance with applicable laws and regulations, following consultation between RUS, RHS, or RBS and USACE. Overall responsibility for congressional liaison and public announcements on RUS, RHS, or RBS taskings to USACE will rest with RUS, RHS, or RBS. However, USACE may make public announcements associated with the solicitation and contract award process, to include responding to congressional inquiries on such matters.

#### 12. IMPLEMENTATION:

FmHA and USACE will issue instructions to their respective field organizations concerning implementation of this MOA.

This MOA shall become effective when signed by both parties. It may be modified or amended only by written agreement. Either of the signatory of this MOA may terminate this MOA by providing thirty calendar days written notice. The termination shall be effective upon the thirtieth calendar day following the notice date, unless a later date is set forth. In the event of termination, FmHA shall continue to be responsible for all costs incurred by the USACE under this MOA, and for the costs of closing out or transferring any ongoing contracts.

Wally B. Beyer  
/signed/  
Administrator  
Rural Utilities Service  
Date: 11/10/95

Albert J. Genetti, Jr.  
/signed/  
Major General, USA  
Directorate of Military Programs  
Date: 7/2/96

Maureen Kennedy  
/signed/  
Administrator  
Rural Housing and Community  
Development Service  
Date: 11/16/95

Dayton J. Watkins  
/signed/  
Rural Business and Cooperative  
Development Service  
Date: 12/29/95