

**INTERAGENCY AGREEMENT
BETWEEN THE U.S. FISH AND WILDLIFE SERVICE
AND THE
U.S. ARMY CORPS OF ENGINEERS**

1. Purpose.

a. This Interagency Agreement (IA) for General Engineering and Construction, Environmental Removal/Remedial Action and Technical Support activities defines the roles and responsibilities of the U.S. Army Corps of Engineers, hereinafter referred to as USACE and the United States Fish and Wildlife Service, hereinafter referred to as USFWS. Specifically, this agreement will define the conditions and procedures for the USFWS to access the USACE for support to their Hazardous, Toxic, and Radioactive Waste (HTRW) site Removal/Remedial Action and technical support requirements to include general engineering and construction activities.

b. It is advantageous to USFWS and in the public interest to share existing contract services to facilitate procurement of essential services and reduce overall acquisition costs to the United States Government.

2. Authority.

a. This IA is entered into pursuant to the Economy in Government Act (31 U.S.C. § 1535) and the USFWS mission statement.

3. Parties. To provide for consistent and effective communication between USACE and USFWS, each party shall appoint a Principal Representative to serve as its central point of contact on matters relating to this IA.

a. USFWS. The USFWS Office is located at the following address:

Environmental and Facility Compliance Branch
12795 West Alameda Parkway
Lakewood, Colorado 80228

(1) USFWS Program Officer:

Ms. Krista Doebbler, Environmental Engineer
Phone: (303) 987-6807, FAX: (303) 987-6819

(2) Other Key USFWS officials will be management level representatives from each Field Area office authorized to make commitments for their areas in implementation of the terms of this agreement.

The work to be performed under this agreement is subject to monitoring by the USFWS Program Officer designated in paragraph III of this Interagency Agreement, or such other persons as designated in writing, from time to time, by the USFWS Contracting Officer. The USFWS Program Officer's responsibility is set forth in Section 9 "Technical Direction and Surveillance".

1. USACE. The USACE Office is located at the following address:

U.S. Army Corps of Engineers
215 N. 17th Street
Omaha, NE 68102-4978

USACE Single Point of Contact (SPOC), acting as USACE Program Officer:

Mr. Tom Zink (CENWO-MD-H)
Phone: 402-221-7711, FAX (402) 221-7838

USACE Northwestern Division National Account Manager

Mr. Daniel Tosoni (CENWD-MR-PM-H)
Phone: 402-697-2622, FAX 402-697-2503

4. Scope of Work.

a. The Scope of Work for this IA is included as an attachment.

(SEE PROPOSAL)

5. Terms of Agreement.

a. This Agreement will be effective for a period of five years from the date it is approved by both parties.

b. Each party will appoint a Program Officer who will be responsible to oversee the tasks performed under this Agreement. Project Officers designated in Section 3 have the authority to agree and approve technical changes in the Scope of Work.

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

6. Financial Administration.

a. Funding between the USFWS and USACE.

(1) The USFWS shall obligate and provide funding on a reimbursable basis to the USACE based on the tasks described, committed to, and undertaken by the USACE. If the USACE determines that at any time during the work that the funding, initially provided, will not be adequate for all costs related to its work, the USACE shall notify USFWS immediately. The USFWS shall be responsible for obtaining necessary additional funds. The USACE will cooperate in these efforts but will not furnish USACE appropriations.

(2) If estimated costs exceed available funds and additional funds are not available to complete the project, the USACE will advise USFWS and cease work. The USFWS shall pay all costs incurred by the USACE up to the date of this direction, plus all costs related to terminating any contracts for the convenience of the government and all valid contract claims.

(3) Upon completion of the assistance contemplated under this Interagency Agreement (IA), the USACE shall conduct a final accounting to determine the total actual costs of the assistance provided. The USFWS may deobligate any amounts obligated in excess of the actual costs incurred by the USACE within 90 days of the final accounting.

(4) The USACE will be responsible for tracking funds and budgets for this work. The USACE will utilize its normal

rates for this work. At any time, upon request by USFWS, USACE will provide information on current rates as rates are subject to the time of signing of this agreement are attached. (See Attachment 2.)

monthly for reimbursement of costs incurred up to the maximum amount authorized under this IA. Billing will be submitted using applicable accounting and appropriation data, and the IA number. The USFWS will make payments promptly for all billings by check

U.S. Army Corps of Engineers
ATTN: CENWO-RM-D

Omaha, NE 68102-4978

Billings will be sent by USACE to:

ATTN: Krista Doebbler
12795 West Alameda Parkway

A statement detailing the basis for costs included in the billing shall accompany each bill.

receipts of the expenditure of all funds under this IA. Records shall be maintained in sufficient detail to permit identification available for inspection by USFWS officials upon request. Once a delivery order has been issued a copy will be provided to USFWS

b. Modifications.

Changes, additions and deletions to the scope of work to be performed for an individual project must be formalized by a modification to the respective Work Order as discussed in Section 8 of this Agreement. They should be supported by a revised or proposed USFWS budget, approval by USACE and other appropriate documentation.

7. Public Information.

a. Consistent with the Freedom of Information Act (FOIA) (5 U.S.C. § 552) procedures for timely release of information to the public regarding projects and programs implemented under this agreement will be coordinate between USFWS and USACE.

b. Justification and explanation of the USFWS programs before Congress and other agencies, departments and offices of the Federal Executive Branch shall be the responsibility of the USFWS. USACE may provide, upon request, any assistance necessary to support the USFWS justification or explanations of the USFWS programs conducted under this IA. In general, the USFWS is responsible for all public information. The USFWS or USACE shall make its best efforts to give the other party advance notice before making any public statement regarding work contemplated, undertaken, or contemplated pursuant to work under this IA.

8. Work Orders.

a. It is anticipated that Work Orders will be periodically issued by mutual agreement of the parties under this Interagency Agreement. However, nothing herein should be construed to require the USFWS to place any minimum amount of work under this agreement. The Work Order will serve the purpose of defining scope and establishing funding limitations and providing funding data for each project. The Work Order Form to be used for each successive project, including amendments, is included at Attachment 3.

b. The USACE shall notify the USFWS Program Officer and Contracting Officer in writing whenever it has reason to believe that the total cost of the performance for any work order will be

greater or substantially less than had been previously estimated. As part of the notification, the USACE shall provide the USFWS a

revised estimate of the total cost of performing any work segments set forth herein.

c. USACE shall monitor, collect, control and report costs against each Work Order identified. In no event will the USACE be entitled to reimbursement of more than the funding limitation for each Work Order.

d. Upon notification to the USACE of any intended Work Order or modification to any existing Work Order, the USACE shall submit a Government Estimate and Scope of Work (SOW) which will also contain a description of the work to be performed, level of effort, the period of performance for such work and personnel designated for the Work Activity, the total funding needed to allow completion, along with cost data in such detail as the USFWS Contracting Officer may require, and any other terms and conditions deemed appropriate. Therefore, however, it is understood that any cost data which may have been provided with such Government Estimate and SOW which identifies the expected total estimated cost, or level of effort for a work segment, has been provided for the purpose of establishing the reasonableness of the funding limitation, not to provide additional funding limitations. No work is authorized except as included and funded by a Work Order incorporated in the agreement and then only if the aggregate dollar value of all Work Order is within the total estimated cost specified for the agreement.

9. Technical Direction and Surveillance.

a. The work to be performed by the United States Army Corps of Engineers (USACE), under this agreement is subject to the surveillance and written Technical Direction of a 'Program Officer', identified, in Section 3 of this agreement. The term 'Technical Direction' is defined to include, without limitation, the following:

(1) Direction to the USACE which redirects the work effort, shifts work emphasis between work areas or tasks, requires pursuit of certain lines of inquiry, fills in details or otherwise provides technical guidance to the USACE in order to

accomplish the tasks and requirements stated in Sections 4 and 5 of this agreement.

(2) Information to the USACE which assists in the interpretation of drawings, specifications or technical portions of in Sections 4 and 5 of this agreement.

(3) Review and, where required by the agreement, approval of technical reports, drawings, specifications or technical information to be delivered by the USACE to USFWS under this agreement.

(4) The Program Officer shall monitor the USACE performance with respect to compliance with the requirements of this agreement.

b. Technical direction and management surveillance shall not impose tasks or requirements upon the USACE additional to or different from the tasks and requirements stated in Sections 4 and 8 of this agreement. The Technical Direction to be valid:

(1) Must be in writing consistent with the tasks and requirements stated in Sections 4 and 8 of this agreement; and

(2) May Not:

(a) constitute an assignment of additional work outside the tasks and requirements state Sections 4 and 8 of this agreement;

(b) in any manner cause an increase or decrease in the total estimated agreement cost or the time required for the agreement's performance;

(c) change any of the expressed terms, conditions or specifications of the agreement; or

(d) accept non-conforming work.

c. The USACE shall proceed promptly with the performance of Technical Directions duly issued by the Program Officer in the manner prescribed by paragraph (B) and which are within his

authority under the provision of paragraph (A); provided, however, that the USACE shall immediately cease the performance of any Technical Direction upon receipt of a written instruction to that effect from the Contracting Officer.

d. If in the opinion of the USACE, and Technical Direction issued by the Program Officer is within one of the categories as defined in 9.b.(2)(a) through (d) above, the USACE shall not proceed but shall notify the Contracting Officer in writing within five (5) working days after the receipt of any such Technical Direction and shall request the Contracting Office to modify the agreement accordingly. Such notice shall:

(1) include the reason upon which the USACE bases its belief that the Technical Direction falls outside the purview of paragraph 9.a. above, and

(2) include the USACE best estimate as to any necessary revisions in the estimated cost, performance time, delivery schedules and any other contractual provisions that would result from the implementation of the Technical Direction. If, after reviewing the information presented, the USFWS Contracting Officer determines that such direction is Technical Direction authorized by this clause, the Contracting Officer will direct the USACE to proceed with the implementation of such Technical Direction and the USACE shall comply therewith. In the event the USFWS Contracting Officer determines that it is necessary to avoid a delay in performance of the agreement he may, in writing, direct the USACE to proceed with the implementation of the Technical Direction pending receipt of the information to be submitted.

e. The only persons authorized to give Technical Direction to the USACE under this agreement are the Contracting Officer and Program Officer identified in Section 3 or the USFWS Work Order POC as identified in Part 7 of the Word Order Form (Attachment 3).

f. At the request of the USACE, Technical Direction within the categories as defined in 9.a. above will be issued in writing.

10. Contract Claims and Disputes.

a. All claims and disputes by contractors arising under or relating to contracts awarded by the USACE will be resolved in accordance with Federal law and the terms of the individual

contract. The USACE will have dispute resolution authority for these claims. Any USACE 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 Engineers Board of Contract Appeals (ENG BCA) and the Armed Services Boards of Contract Appeals (ASBCA) are designated as the appropriate boards of contract appeals. In lieu of appealing to the ENG BCA or the ASBCA, the Contractor may bring an action directly to the United States Court of Federal Claims.

b. The USACE will be responsible for handling all litigation involving disputes and appeals, and for coordinating with the Department of Justice as appropriate. The USACE will promptly notify the U.S. Fish and Wildlife Service Contracting Officer orally and in writing upon the filing of any claim or litigation relating to the contract, or upon a USACE decision to file a claim or institute litigation for which USFWS may be financially responsible. The USACE will provide regular status reports concerning any pending claim or litigation and with copies of all pleadings filed in litigation.

c. The USACE will not settle any claim or litigation without first advising and consulting with USFWS and fully considering the position of USFWS to the maximum extent possible. If the USFWS requests that the USACE pay a claim or settle litigation, the USACE will make every effort to do so.

11. Liability.

If liability of any kind is imposed on the United States relating to the USACE provision of goods and services under this agreement, including liability under CERCLA and RCRA, the USACE will accept accountability for its actions, but the USFWS will remain responsible as the program proponent for providing such funds as are necessary to discharge the liability, and all related costs.

12. Other Conditions.

a. Other regulations and clauses, which are by inclusion made a part of this agreement, are listed below:

(1) Equal Opportunity: During the performance of this agreement, the participants agree to abide by the terms of Executive Order No. 11246 (as amended by Executive Order No. 11375 and as supplemented in Department of Labor Regulations 941 CFR, Part 60) on nondiscrimination and will not discriminate against any person because of race, color, religion, sex, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, religion, sex, or national origin.

(2) Officials Not to Benefit: No member of or delegate to Congress or Resident Commissioner; or any officer, employee, special Government employee; or agent shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom. This provision shall not be construed to extend to a corporation or unit of Government contracting for its or for the public's general benefit.

(3) This IA shall not affect any pre-existing or independent relationships or obligations between the USFWS and USACE.

(4) This IA 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, USACE policies and procedures shall govern all contract work undertaken by USACE.

(5) If any provision of this IA 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.

13. Implementation.

This Agreement is effective upon signature of the responsible parties of both agencies.

ON BEHALF OF THE
U.S. FISH AND WILDLIFE SERVICE

/signed/

PAUL CAMP
Chief, Division
of Engineering

April 9, 1998
Date

ON BEHALF OF
U.S. ARMY CORPS OF ENGINEERS
OMAHA DISTRICT

/signed/

ROBERT D. VOLZ
Colonel, EN
Commanding

April 2, 1998
Date

ATTACHMENT 1
RAPID/IMMEDIATE RESPONSE PROJECT ACCEPTANCE CRITERIA

Consideration for Rapid Response Projects: Projects will be required to meet established criteria to be accepted for Rapid Response contracting. The focus of these criteria will be towards situations warranting a time critical response by the government, ultimately bypassing the traditional procurement methods. Specifically, a project must meet at least one of the following criteria for acceptance for Rapid Response contracting:

- Regulatory constraints such as a Notice of Violation, a site order, an administrative order, a correction agreement, or substantially similar regulatory constraints, and sufficient time does not allow for the normal acquisition process;
- A congressionally mandated start date and adequate time does not permit for the normal acquisition process;
- The possible detrimental effects on human health and/or the environment if a response is not initiated promptly;
- The necessity to abate, minimize, stabilize, contain mitigate, or eliminate a hazardous substance release, or threat of a release;
- The necessity to remove or stabilize Ordnance and Explosive Waste (OEW).
- Qualifying for an interim removal action through EPA;
- The necessity to remove or control the point sources of contamination;
- The necessity to control contamination of drinking water systems or sensitive ecosystems;
- Time critical response actions as defined in the National Contingency Plan;
- The necessity to provide security fencing or other measures to limit access;

- Projects qualifying for funding and execution through the Environmental Protection Agency's Emergency Response Removal Program or HQUSACE Superfund Program;
- A project involving a release or potential release of a controlled or hazardous substance where time delays associated with the traditional procurement process would have significant negative fiscal consequences for the government.

Consideration for Immediate Response Action (IRA) Projects:
Projects that are considered as IRAs result from:

- The possible immediate detrimental effects on human health and/or the environment if a response is not initiated promptly;
- The necessity to minimize, contain, or stabilize hazardous substance release or threat of a release;
- The necessity to remove or control the point sources of contamination;
- The necessity to provide security fencing or other measures to limit access; or
- The necessity to provide alternative water supplies as required.

GENERAL ADMINISTRATION AND TECHNICAL RATES

Technical Support Activities:

house labor will be on a direct reimbursable basis and limited to a total not to exceed figure that has been thoroughly coordinated administrative and overhead rates are attached and are subject to change on a monthly basis. Basic wage rates will typically be at

Rapid Response General and Administrative Rates:

Construction Supervision and Administration (S&A) -

Rapid response User Fee - .75% Contract

See Above

Construction S&A and User Fee will be applied to the negotiated

Supervision and Administration fees will be applied to all Construction Management activities incurred after the award of

activities and full time construction and field oversight by at least one full time rapid response Construction Representative or

a revolving fund to reimburse various overhead costs incurred with the operation of the Rapid program, such as the procurement

Engineering and technical support activities are typically limited to activities before award of the basic delivery order,

site, review of the contractor' safety and Health Plan, incidental design activities associated with the removal action, and delivery order negotiations.

basic delivery order amount, but will vary based on the technical complexity of a project. All engineering costs will be

**HTRW-PPM
TOTAL PROJECT CHARGE BREAKDOWN
AS OF JUNE 1997**

	MILITARY	CIVIL
Direct Labor		
Effective Salary (Base Pay X 1.4625)	(.4625) 1.4625	(.4625) 1.4625
Indirect Costs (Eff Pay X Indir)	(.452) .661	(.490) .717
Overhead (Eff Pay X OH)	(.2932) <u>.429</u>	(.2971) <u>.435</u>
 Total Project Charge X Base Pay	 2.553	 2.615
 FYI: Engineering Division Multipliers:	 2.649	 2.687
Construction Division Multipliers:	2.435	2.616

Effective Rate Costs:

Annual Leave
Sick Leave
Admin Leave
Holidays
Health Unit
Gov't Contribution to:
Retirement
Life Insurance
Health Insurance
Social Security

Technical Indirect Costs:

Labor & Overtime (Indirect Personnel)
Training
Per Diem & Travel (Training & Indirect Personnel)
Permanent Change of Station (PCS) Related Costs
Freight Charges
Supplies & Materials, Mag Subscr, Microfilm, Software
Telephone, mail
GSA Space & Utilities
Equipment Rental
Rental GSA Vehicles
Reproduction
ADP
Expendable Tools
Photo Unit/Graphics
ADP
Communications unit
F&A
Central payroll
Workstation Resource Center
Survey
Core Drill
Shops and Yards (Maint Base)
Depreciation
Insurance
Plant Replacement

District Overhead Costs:

Executive Office
RMO
Public Affaire Office
Office of Counsel
Personnel Office
Logistics Mgmt. Office
EEO
Safety Office
Security Office
Internal Review Office
IMO
Contracting Division
ADP (Part)
MRD Plane

If you have any questions concerning this info, contact Judy.

ATTACHMENT 3

U.S. FISH AND WILDLIFE SERVICE (USFWS)
WORK ORDER FORM (WOF)
U.S. ARMY CORPS OF ENGINEERS (USACE) GENERIC INTERAGENCY
AGREEMENT

DATE _____

1. SITE NAME: _____
2. WOF ASSIGNMENT TITLE: _____
3. WOF ASSIGNMENT NUMBER: WOF- _____ 4. MODIFICATION NO. 000
5. IA NO.: _____
6. USFWS SITE LOCATION/DESCRIPTION: _____
7. USFWS WORK ORDER POC: _____
8. PHONE: _____
9. USACE POC: Tom Zink, 402-221-7711, CENWO-MD-H
10. PERIOD OF PERFORMANCE - FROM: _____ TO: _____
11. FUNDING: DESCRIPTION / APPROPRIATION:

WOF Assignment Funding	
Previous Funding	\$0.00
Current Funding	\$00.00
Total Funding	\$00.00

12. SCOPE OF WORK: (Use additional sheets when necessary)

13. SCHEDULE FOR ASSIGNMENT ACTIVITIES AND DELIVERABLES: (Use additional sheets when necessary)

14. ACCOUNTING INFORMATION:

Accounting Information				
	DCN	Account Number	Object Class	Amount
Deobligate From				
Obligate To				

If additional funds or extensions to the period of performance are needed, the USACE shall contact the USFWS Generic IA Program Officer, Mr. Charles Fasano, (303) 987-6807, as soon as practicable.

PRIMARY CONTACTS

AUTHORIZATION: Authorization is hereby given to the USACE Rapid Response program to provide assistance as provided for in the generic IA and within the scope of work, budget, and schedule as described in this WOF. Sufficient funds are available in the generic IA to support this WOF.

 CHARLES FASANO
 Program Officer

 Date

