

INTERAGENCY AGREEMENT
1443IA4520-99-002
between the
UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
and the
UNITED STATES ARMY CORPS OF ENGINEERS

Beginning Date: Date of Execution Completion Date: 5 years

THIS AGREEMENT is made and entered into between the United States Department of the Army, through the United States Army Corps of Engineers, North Atlantic Division, hereinafter also called the (CORPS) and the United States Department of the Interior, National Park Service, Northeast Region, hereinafter also called (NPS).

ARTICLE I. BACKGROUND AND OBJECTIVES

WHEREAS, Section 1535 of Title 31 U.S.C., authorizes Federal agencies to enter into agreements with each other for supplies and services if amounts are available, the head of the ordering agency or unit decides the order is in the best interest of the United States Government, the agency or unit to fill the order is able to provide the ordered goods or services, and the ordering agency decides that the ordered goods or services cannot be provided as conveniently or cheaply by a commercial enterprise; and

WHEREAS, the NPS certifies that all of the above requirements applicable to the ordering agency have been met and the CORPS certifies that all of the above requirements applicable to the providing agency have been met; and

WHEREAS, the NPS has set aside funds for the purpose of securing miscellaneous technical support, contracting and construction management services.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, it is hereby agreed by and between the parties hereto:

ARTICLE II. STATEMENT OF WORK

Goods and services, which the CORPS may provide under this agreement, include contracting support and administration for a variety of selected projects. Such services to include all or in part, but not limited to:

Solicitation Phase – review of specifications, submission into CBD (if applicable), preparation and distribution of project documents, pre-bid meetings (if necessary);

Pre-award/Award Phases – bid openings, bid verifications, determinations of responsive/responsible bidders, obligations of funds, preparing awarding documentation, pre-construction meetings;

Contract Administration, project supervision, and contract close-out phases, and such other related goods or services as may be agreed upon in the future.

Support Agreements:

In response to requests from the NPS for the CORPS assistance under this agreement, the CORPS and the NPS 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 in advance or by reimbursement;
- the amount of funds required and available to accomplish the scope of work as stated above;
- the NPS's fund citation and the date upon which the cited funds expire for obligation purposes

Nothing in this Agreement shall be construed to require the NPS to use the CORPS or to require the CORPS to provide any goods or services to the NPS, except as may be set forth in individual Support Agreements ("SA").

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

THE CORPS OF ENGINEERS AGREES:

1. The CORPS shall provide the NPS with goods or services in accordance with the purpose, terms, and conditions of this Agreement and with specific requirements set forth in SAs and implementing arrangements.
2. The CORPS shall submit a cost proposal with each SA to NPS for final approval.
3. The CORPS shall identify the authorized CORPS representatives to sign SAs.
4. The CORPS shall use its best efforts to provide goods or services either by contract or by in-house effort.
5. The CORPS shall provide detailed periodic progress, financial and other reports to the NPS as agreed to in the SA. Financial reports shall include information on all funds received, obligated, and expended, and on forecast obligations and expenditures.
6. The CORPS shall inform the NPS of all contracts entered into under each SA.

THE NPS AGREES:

1. The NPS shall certify, prior to the execution of each SA under this Agreement, that the SA complies with the requirements of the Economy in Government Act.
2. The NPS shall pay all costs associated with the CORPS provisions of goods or services under this Agreement and shall certify, at the time of signature of a SA, the availability of funds necessary to accomplish that SA.
3. The NPS shall ensure that only authorized NPS contracting officers sign SAs.
4. The NPS shall develop draft SAs to include scope of work statements.
5. The NPS shall obtain for the CORPS 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 execution of each SA.

ARTICLE III. TERMS OF AGREEMENT

Unless earlier terminated by operation of the terms of this agreement or by agreement of the parties in writing, this Agreement shall remain in force for 5 years from the date of execution thereof.

ARTICLE IV. KEY OFFICIALS

The personnel specified below are considered to be essential to ensure maximum coordination and communication between the parties and the work being performed hereunder. Either party, on notice to the other party, may designate another person or persons to act in his/her place in an emergency or otherwise. Permanent changes of key personnel must be made in writing to the Contracting Officer.

A. The key official for the National Park Service is:

Michele Valenza – NPS
Boston Support Office
15 State Street
Boston, MA 02109
Michele_Valenza@nps.gov
(617) 223-5162

B. The key official for the U.S. Department of the Army, Corps of Engineers is:

Michelle Kewer – CENAE-CT
USACE – New England District
696 Virginia Road
Concord, MA 01742
Michelle.A.Kewer@usace.army.mil
(978) 318-8414

ARTICLE V. FUNDING

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

If the CORPS forecasts its actual costs under a SA to exceed the amount of funds available under the SA, it shall promptly notify the NPS of the amount of additional funds necessary to complete the work under that SA. The NPS shall either provide the additional funds to the CORPS, or 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 CORPS shall conduct an accounting to determine the actual costs of the work. Within 30 days of completion of this accounting, the CORPS shall return to the NPS any funds advanced in excess of the actual costs as then known, or the NPS shall provide any additional funds necessary to cover the actual costs as then known.

This agreement and the obligations of the NPS hereunder shall be subject to the availability of funding, and nothing herein contained shall be construed as binding the NPS to expend in one fiscal year any sum in excess of appropriations made by Congress or administratively allocated for the purpose of the agreement for the fiscal year, or to involve the NPS in any contract or other obligation for the further expenditure of money in excess of such appropriations or allocations.

ARTICLE VI. APPLICABLE LAWS

This Agreement 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 CORPS shall be governed by the CORPS policies and procedures.

ARTICLE VII. CONTRACT CLAIM AND DISPUTES

All claims and disputes by contractors arising under or relating to contracts awarded by the CORPS shall be resolved in accordance with Federal law and the terms of the individual contract. The CORPS 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 U.S. Army 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 Court of Federal Claims.

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

ARTICLE VIII. DISPUTE RESOLUTION

The parties agree that, in the event of a dispute between the parties, the NPS and the CORPS 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).

ARTICLE IX. RESPONSIBILITY FOR COSTS

If liability of any kind is imposed on the United States relating to the CORPS provision of goods or services under this Agreement, the CORPS will accept accountability for its actions, but the NPS shall remain responsible as the program proponent for providing such funds as are necessary to discharge the liability, and related costs. NPS will have the opportunity to review and comment on any litigation proceedings and any resulting settlement negotiations.

ARTICLE X. PUBLIC INFORMATION

Justification and explanation of the NPS's programs before Congress and other agencies, departments, and offices of the Federal Executive Branch shall be the responsibility of the NPS. The CORPS may provide, upon request, any assistance necessary to support the NPS's justification or explanations of the NPS's programs conducted under this Agreement. In general, the NPS is responsible for all public information. The CORPS may make public announcements and respond to all inquiries relating to the ordinary procurement and contract award and administration process. The NPS or the CORPS 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 Agreement.

ARTICLE XI. MISCELLANEOUS

A. OTHER RELATIONSHIPS OR OBLIGATIONS

This agreement shall not affect any pre-existing or independent relationships or obligations between the NPS and the CORPS.

B. SURVIVAL

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

C. SEVERABILITY

If any provision of the Agreement 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 XII. AMENDMENT, MODIFICATION AND TERMINATION

This Agreement may be modified or amended only by written, mutual agreement of the parties. Either party may terminate this Agreement 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 NPS shall continue to be responsible for all costs incurred by the CORPS under this Agreement and for the costs of closing out or transferring any on-going contracts.

ARTICLE XIII. AUTHORIZING SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers or representatives the day and year written below.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers or representatives the day and year written below.

NATIONAL PARK SERVICE

U.S. ARMY CORPS OF ENGINEERS

BY: *Lorna M. Gunning* 7/29/99
LORNA M. GUNNING Date
Contracting Officer
Boston Support Office
15 State Street
Boston, MA 02109
Lorna_Gunning@nps.gov
(617) 223-5038

BY: *[Signature]* 22 July 1999
TERRY L. SINN Date
Major General, U.S. Army
Division Engineer
North Atlantic

BY: *[Signature]* 7/30/99
CHRYSANDRA WALTER Date
Deputy Field Director
Northeast Regional Office
15 State Street
Boston, MA 02109
Chrysandra_walter@NPS.gov
(617) 223-5008