

**Policy and Procedural Guidelines  
for  
TECHNICAL ASSISTANCE PROGRAM**

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## **Section I**

### **GENERAL INFORMATION**

**1-1. Purpose.** This document sets forth responsibilities, policies and procedures for the Army Technical Assistance Program (**Program**). This Program is intended to enhance the competitiveness of United States firms (firms) competing for or awarded contracts for the planning, design or construction of projects overseas by making available the specialized engineering, technical and scientific expertise of the United States Army Corps of Engineers (**USACE**).

**1-2. Applicability.** This regulation applies to all HQUSACE elements, USACE major subordinate commands (MSC), districts, laboratories and field operating activities.

**1-3. Authority.** The Program is authorized by Section 9 of the Water Resources Development Act of 1988, as amended (33 U.S.C. 2314a)

#### **1-4. Responsibilities.**

- a. **Director of Civil Works** establishes Program policy.
- b. **Office of Interagency and International Activities (CECW-I)** manages Program activities and provides Program oversight and guidance.
- c. **Commanders of MSCs and Director of Research and Development (CERD)** validate District/Laboratory capability and approve requests to negotiate and execute technical assistance agreements (TAA).
- d. **Commanders and Directors of Districts and Laboratories** coordinate, negotiate and execute TAAs with firms requesting Program assistance.

## **Section 2**

### **POLICIES**

**2-1. Program Eligibility.** Firms eligible to apply for Program assistance are corporations, partnerships, limited partnerships or sole proprietorships incorporated or established under the laws of the United States with their principal place of business in the United States. To qualify for this assistance, the firm must:

- a. certify that the assistance requested is not otherwise reasonably and expeditiously available;
- b. provide funds, in advance of fiscal obligation by the United States, to cover all technical assistance performed by the USACE, including outlays for equipment and other facilities procured solely to perform the requested services;

c. hold and save the United States free from damages due to the planning, design, construction, operation or maintenance of the project.

d. sign an agreement that includes the terms, conditions, certifications and disclosures included in Appendix A, Standard TAA.

**2-2. Scope of Technical Assistance.** Technical assistance under this Program must be related to a planning, design or construction contract for work outside the United States that is awarded to, or bid by, the requesting firm. Technical support of a firm's unsolicited proposal for an overseas contract is acceptable provided the firm clearly identifies the prospective contract owner (foreign entity) to which the proposal will be made. Excluded is technical assistance to an overseas project funded by the requesting firm or in support of its normal overseas operations. The work requested by the firm must support the firm's contract performance, not position USACE to perform a lead role in that effort. Technical assistance must promote Corps skills and competencies related to either/both civil and military missions; not compromise performance of authorized USACE missions; nor require USACE staff in excess of authorized personnel allocations. "Technical assistance" includes studies, evaluations, designs, computer and physical modeling and testing, and other engineering and scientific functions for which USACE is uniquely equipped, trained and authorized by law to perform. Attendance at overseas conferences and seminars, training, language and real estate services, procurement of goods and services, quality assurance and project management are excluded if not an integral part of planning, design or construction services.

**2-3. Expertise versus Area Responsibility.** Under this Program, District/Lab technical expertise, experience and facilities will take precedence over geographic areas of responsibility in assignments to coordinate, negotiate and execute TAAS. In many instances, expertise, experience and facilities will reside in the MSC with area responsibility for the country where Program assistance is to be provided. When a District/Lab has been selected to provide Program assistance in another MSC's area of responsibility, that District/Lab will immediately inform the area MSC (through its area District) of the type, nature and location of the impending Program assistance and the status of embassy approvals. The District/Lab and area District will coordinate logistical and other requirements for entering and conducting Program assistance in the specific country.

**2-4. Foreign Policy Considerations.** USACE technical assistance must conform to U.S. foreign policy objectives for the country where the assistance is to be provided. Accordingly, the Department of State and Department of Defense (DOD) must give political and military approvals of USACE involvement in the requested technical assistance prior to signing a TAA. For this Program, State and Defense approvals will be obtained from the U.S. ambassador assigned to the country where assistance is to be provided through the military representative on his/her staff. In addition, the conduct of technical assistance must not violate the provisions of DOD Directives 5500.7, Standards of Conduct, and 5500.7-R, Joint Ethics Regulation.

**2-5. Non-Exclusive Support.** USACE technical assistance must be provided on a nonexclusive basis. Should more than one firm request Program assistance on the same project, USACE must provide the same level of technical assistance to all requesting firms. See **Appendix C**, "United

States Firm Protection of Proposal Information.”

**2-6. Joint Ventures.** While Program assistance to foreign firms is not authorized, a district or laboratory may support a United States firm in joint venture with one or more foreign firms. In this situation, the United States firm is the only recipient of Program assistance, and the terms, conditions and responsibilities in the TAA are not assignable to the foreign joint venture firms.

**2-7. Technical Assistance Agreements (TAA).** Negotiation and signature of a TAA by the firm and USACE Command, prepared in accordance with the standard TAA format at Appendix A, is a condition of providing technical assistance.

**2-8. Funding.** The firm must provide, in advance of fiscal obligation by the United States government, funds to cover direct and indirect costs of the technical assistance provided by the Command. Funding may be provided incrementally based on a payment schedule included in the TAA. No obligations or expenses will be incurred in connection with the work in excess of funds on deposit with the Command performing the work.

**2-9. Foreign Travel.** Foreign travel by USACE personnel will be identified in the TAA as a fully-reimbursable cost of technical assistance. Such travel is subject to the policies and regulations of Engineer Regulation 55-1-2, Travel Management. The costs for such foreign travel are not subject to Corps foreign travel ceilings. Travel by foreign nationals to USACE facilities related to TAA coordination, negotiation or execution will be governed by the provisions of AR 380-1 0, Disclosure of Information and Visits of Foreign Nationals. Travel by foreign nationals will be coordinated with HQUSACE, Office of Security and Law Enforcement (CEPM-S) and follow procedures promulgated by that office.

**2-10. Support From Other Commands.** Subject to MSC/CERD approval, a District/Lab may include the technical services of other District(s)/Lab(s) in its project TAA.

**2-11. Protection of Government Information.** Procedures for protecting classified or proprietary government information and data from unauthorized disclosure to foreign governments are described in the Export Administration Regulations (15 C.F.R. 778), DOD Directive 2000.3, International Interchange of Patent Rights and Technical Information, AR 380-10, Disclosure of Information and Visits of Foreign Nationals, and ER 380-1-17, International Technology Transfer. Release of classified government information or data to foreign sources requires prior written approval of the Secretary of the Army (Secretary). Firms provided access to classified or proprietary information and data should contact CEPM-S for guidance in protecting, managing and disseminating sensitive government documents.

**2-12. Export Control Laws and Regulations.** Pursuant to the Export Control Act of 1979, as amended (50 U.S.C. 2401) et seq., whenever transferring technical data to a foreign person, even within the United States, or transferring technical data to another country, the regulations at 15 C.F.R. 779 shall apply.

**2-13. Intellectual Property Rights.** When an invention is made or conceived by a Federal employee under this Program, the Secretary will retain, as a minimum, a non-exclusive, non-transferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world. The Secretary may retain all or any rights to such invention as deemed appropriate; grant or agree to grant to the firm an exclusive or non-exclusive patent license or an option thereto; or waive, in whole or in part, any right the United States may have to such invention subject to the license described above. When an invention is conceived by an employee of the firm, or if the firm is granted a license to a Federal employee invention, the firm must retain, as a minimum a non-exclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the firm. "Technical assistance" includes studies, evaluations, designs, computer and physical modeling and testing, and other engineering and scientific functions for which USACE is uniquely equipped, trained and authorized by law to perform. A, and the Domestic and Foreign Protection of Patents Act, 35 U.S.C. 207.

**2-14 Protection of United States Firm Information.** In the course of planning and delivering services under a TAA, Commands will have access to information the firm may not want disclosed for purposes other than evaluation and negotiation. Such information may include trade secrets, processes, operations, style of work and (in the case of support of a firm's proposal for an overseas contract) highly sensitive labor rates, overhead costs, cost estimates and work breakdown schedules. The following policies apply to Command management of sensitive information and data provided by firms in coordinating, negotiating and executing TAA'S.

a. If the firm wishes to restrict the dissemination of information presented to or accessible by USACE personnel, the conditions set forth in Appendix C must be followed. The unauthorized disclosure of such information, except as authorized by law, may result in criminal penalties under 18 U.S.C. 1905, Disclosure of Confidential Information Generally (also known as the "Trade Secrets Act").

b. The Command must consult with the firm prior to releasing the firm's documents under a Freedom of Information Act (FOIA) request. Release of documents under a FOIA request shall follow procedures set forth in AR 25-55, Release of Information and Records from Army Files.

**2-15. Environmental Compliance.** In providing Program support, USACE will violate neither the environmental laws of the country in which technical support is provided nor United States laws, directives, regulations or policies applicable to that country.

**2-16. Accountability.** Program performance of Divisions, Districts and laboratories will be measured by Customer Satisfaction Surveys (**Appendix D**).

## **Chapter 3 PROCEDURES**

**3-1. Processing Requests.** The procedures for receiving, coordinating and approving requests

for Program assistance are outlined below.

**a. The Request.** The firm will submit a written request for Program support to HQUSACE (CECW-I), MSC or Districts and Laboratories. This document will describe the project for which Program assistance is requested - type of work (planning, design, construction), location, project owner, project cost and funding source (if different from owner). The firm will indicate the type and duration of work requested of USACE in support of that project. The firm will indicate whether it has been awarded or is bidding for a contract for the project (or portion thereof); and indicate whether the contract (or bid) is in the firm's name or a joint venture of which the firm is partner. If a joint venture, the firm will provide the name(s) and addressees) of all joint venture partners.

**b. District/Laboratory Policy Check.** If contacted directly by the firm, the District/Lab will use the Program Checklist at Appendix B to:

- (1) Validate the firm's qualifications (see paragraph 2-1);
- (2) Determine if requested USACE services are adequately defined (see paragraph above);
- (3) Determine if the work is consistent with the definition/scope of "technical assistance" in paragraph 2-2;
- (4) Coordinate with the Division with geographic responsibility for the overseas region where the support would be provided.
- (5) Develop a preliminary cost estimate for the requested services, including the costs of supporting District/Lab's, when applicable.
- (6) Based on labor and other requirements of the requested services determine if the District/Laboratory has adequate staffing, expertise, experience and facilities to perform the work;
- (7) Gain approval for USACE involvement in the firm's project from the U.S. Embassy in the country where the work is to be performed. The District/Lab will make their request through the Military Attaché/Defense Liaison assigned to the Embassy.
- (8) Provide the cost estimate and checklist to the MSC (for Districts) or CERD (for Laboratories) for the Resource Check described below.

**c. MSC/CERD Resource Check.** After reviewing the District/Lab cost estimate and checklist, the MSC/CERD will:

- (1) Validate District/Lab capability to perform work [3-1b(5)] above.
- (2) Authorize the District/Lab to negotiate and execute a TAA if it concurs in the District/Lab capability assessment; and immediately notify CECW-I of this action.

(3) Assign subordinate District/Labs to support TAA effort when required.

(4) Immediately notify CECW-I if it determines that the capability to perform the requested work does not reside within the District/Lab contacted by the firm or its subordinate Districts or Labs.

**d. CECW-I Review.** The CECW-I will,

(1) When contacted directly by the firm, and in consultation with the appropriate HQUSACE offices, assign TAA coordination/execution responsibilities to the District/Lab (through its Division or CERD) most qualified to perform the work.

(2) When the firm makes initial contact with a District/Lab, and the MSC/CERD validates its capability to perform the work requested, inform the MSC/CERD whether other USACE Districts or Labs are, or are negotiating to provide technical assistance to other firms involved in the same project/solicitation.

(3) When the firm makes initial contact with a District/Lab, but the MSC/CERD does not validate Division/Lab capability to perform the work requested, follow procedures in d(1) above.

**3-2. Negotiating Technical Assistance Agreements.** The procedures for negotiating and executing TAAs are as follows:

a. **Documentation.** The agreement between the firm and District/Lab to provide Program assistance must be based on the standard TAA model at Appendix A. Changes in the content, format or standard provisions of the TAA model must be approved by CECW-I before signature of the project TAA.

b. **Scope of Work.** The District/Lab must ensure that work requested by the firm, and included in the TAA, is consistent with the definition of "technical assistance" in paragraph 2-2.

c. **Cost Estimate.** The District/Lab will include in the TAA the estimated cost of labor (direct and indirect), overhead, foreign and domestic travel, per them and other costs associated with performance of the requested services. If applicable, the labor and other costs of supporting Districts/Labs will be included in this cost estimate.

d. **Suspension/Termination of Negotiations.** The District/Lab will notify its MSC/CERD when negotiations are suspended or canceled.

e. **Signature.** The District or Lab Commander will sign all project TAAs. Following signature of both parties, the District/Lab will forward a copy of the project TAA to CECW-I through its MSC/CERD.

**3-3. Executing Technical Assistance.** The procedures for performing work identified in a TAA are as follows.

a. **Funds Management.** The firm will provide funds directly to the designated Command in advance of any work required under a TAA. The Command will not perform any work for the firm until funds are received. Funds will be deposited to the credit of the principal appropriation or other account from which the costs of providing the services are paid or are to be charged (refer to policies and procedures in ER 3 7-2-1 0, Accounting and Reporting Civil Works Activities). Financial reports covering funds expended and remaining will be provided to the firm with progress reports. Unused funds will be returned to the firm not later than 120 calendar days after completion or termination of the project.

b. **Project Management.** Project management practices and principles described in Engineering Regulation 5-7-1, Project Management, shall be followed in planning and executing work under the Program.

c. **Reporting.** Progress reports will be submitted to the supported firm under terms specified in the TAA. Commands will also report all TAA activities in the HQUSACE International Activities Report.

d. **Multiple Command Support in Same Solicitation (see Appendix XX).** In cases where USACE provides technical assistance to two or more firm's bidding the same project, the following procedures apply:

(1) Unclassified USACE information, data or documentation that is otherwise releasable to the general public will be made available, upon request, on the same terms to all firms supported by USACE on the same solicitation.

(2) Analytical reports, data bans or other information or reports developed by a Command to assist the firm in preparing bid documents are not releasable to other competing firms without prior consultation with the supported firm.

e. **Project Survey.** The firm will complete the Customer Satisfaction Survey at the conclusion of work. The completed survey will be forwarded through the MSC/CERD to CECW-I.