MEMORANDUM OF AGREEMENT
BETWEEN
THE U.S. POSTAL SERVICE OFFICE OF INSPECTOR GENERAL
AND
THE U.S. ARMY CORPS OF ENGINEERS

ARTICLE I - PURPOSE AND AUTHORITY

This Memorandum of Agreement ("MOA") is entered into by and between the U.S. Army Corps of Engineers ("the Corps" or "USACE") and the U.S. Postal Service Office of Inspector General, its successors and assigns (USPS-OIG) ("the parties") for the purpose of establishing a mutual framework governing the respective responsibilities of the parties for the provision of Corps biohazard testing and decontamination goods and services. This MOA is entered into pursuant to 10 U.S.C. § 3036(d) and the Inspector General's Act (IG Act), 5 U.S.C. Appendix 3 Section 6.

ARTICLE II - SCOPE

Goods and services which the Corps may provide under this MOA include biohazard testing and decontamination, and such other related goods or services as may be agreed upon in the future.

Nothing in this MOA shall be construed to require USPS-OIG to use the Corps or to require the Corps to provide any goods or services to USPS-OIG, except as set forth in this MOA.

ARTICLE III - INTERAGENCY COMMUNICATIONS

To provide for consistent and effective communication between the Corps and USPS-OIG, each party shall appoint a Principal Representative to serve as its central point of contact on matters relating to this MOA.

ARTICLE IV - RESPONSIBILITIES OF THE PARTIES

A. Responsibilities of the U.S. Army Corps of Engineers

1. The Corps shall provide USPS-OIG with goods or services in accordance with the purpose, terms, and conditions of this MOA and with specific requirements set forth in this MOA.

2. The Corps shall use its best efforts to provide goods or services either by contract or by in-house effort.

3. The Corps shall provide detailed periodic progress, financial and other reports to USPS-OIG. Financial reports shall include information on all funds received, obligated, and expended, and on forecast obligations and expenditures.

4. The Corps shall inform USPS-OIG of all contracts entered into.

B. Responsibilities of the U.S. Postal Service Office of Inspector General

1. The USPS-OIG shall pay all costs associated with USACE's provisions of goods or services under this MOA and shall certify the availability of funds.

2. The USPS-OIG shall obtain for USACE 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.

ARTICLE V - FUNDING

A. The USPS shall pay all costs associated with USACE's provision of goods or services under this MOA via a reimbursable funding document provided prior to commencement of the work. The signed and dated reimbursable funding document will include: purpose/scope of work, all information regarding the reimbursing and performing activity, estimated completion date or effective date, cost estimate dollar amount, source of funds (full appropriation data), other financial information to include Disbursing Station Number (DSN) and Agency Location Code (ALC), as appropriate. USACE will bill USPS monthly for costs incurred , using Standard Form ("SF") 1080, Voucher for Transfers between Appropriations and/or Funds , and USPS shall reimburse USACE within 30 days of receipt of an SF 1080.

B. If USACE forecasts its actual costs to exceed the amount of funds available, it shall promptly notify USPS-OIG of the amount of additional funds necessary to complete the work. The USPS-OIG shall either provide the additional funds to USACE, 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.

C. Within 90 days of completing the work, USACE shall conduct an accounting to determine the actual costs of the work. Within 30 days of completion of this accounting, USACE shall return to USPS-OIG any funds advanced in excess of the actual costs as then known, or USPS-OIG shall provide any additional funds necessary to cover the actual costs as then known. Such an accounting shall in no way limit USPS-OIG 's duty in accordance with Article IX to pay for any costs, such as contract claims or other liability, which may become known after the final accounting.

ARTICLE VI - APPLICABLE LAWS

This MOA 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 USACE shall be governed by USACE policies and procedures.

ARTICLE VII - CONTRACT CLAIMS AND DISPUTES

A. All claims and disputes by contractors arising under or relating to contracts awarded by USACE shall be resolved in accordance with Federal law and the terms of the individual contract. USACE 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 Armed Services Board of Contract Appeals (ASBCA) is designated as the appropriate board of contract appeals. In lieu of appealing to the ASBCA or its successor, the contractor may bring an action directly to the United States Court of Federal Claims.

B. USACE shall be responsible for handling all litigation involving disputes and appeals, and for coordinating with the Department of Justice as appropriate. USACE shall notify USPS-OIG of any such litigation and afford USPS-OIG 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, USPS-OIG and USACE 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.

ARTICLE IX — RESPONSIBILITY FOR COSTS

A. If liability of any kind is imposed on the United States relating to USACE's provision of goods or services under this MOA, USACE will accept accountability for its actions, but the USPS-OIG shall remain responsible as the program proponent for providing such funds as are necessary to discharge the liability, except as provided in Article IX, Paragraph B below, and all related costs. This obligation extends to all funds legally available to discharge this liability, including funds that may be made legally available through transfer, reprogramming or other means. Should the USPS-OIG have insufficient funds legally available, including funds that may be made legally available through transfer, reprogramming or other means, they remain responsible for seeking additional funds from Congress for such purpose, although nothing in this MOA shall be construed to imply that Congress will appropriate funds sufficient to meet the liability.

B. This MOA does not confer any liability upon the USPS-OIG for claims payable by USACE under the Federal Tort Claims Act. Provided, however, that nothing in this Agreement is intended or will be construed to create any rights or remedies for any third party and no third party is intended to be a beneficiary of this Agreement.

ARTICLE X - PUBLIC INFORMATION

Justification and explanation of USPS-OIG's programs before Congress and other agencies, departments, and offices of the Federal Executive Branch shall be the responsibility of USPS-OIG. USACE may provide, upon request, any assistance necessary to support USPS-OIG's justification or explanations of USPS-OIG's programs conducted under this MOA. In general, USPS-OIG is responsible for all public information. USACE may make public announcements and respond to all inquiries relating to the ordinary procurement and contract award and administration process. The USPS-OIG or USACE 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 this MOA. The parties agree that no information regarding this MOA, or services rendered pursuant to it shall be released pursuant to the Freedom of Information Act without first providing the other party an opportunity to review the request and raise any applicable objections it may have to the release of information.

ARTICLE XI - MISCELLANEOUS

A. Other Relationships or Obligations

This MOA shall not affect any pre-existing or independent relationships or obligations between USPS-OIG and USACE.

B. Survival

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

C. Severability

If any provision of this MOA 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 MOA may be modified or amended only by written, mutual agreement of the parties. Either party may terminate this MOA 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, USPS-OIG shall continue to be responsible for all costs incurred by USACE under this MOA and the costs of closing out or transferring any on-going contracts.

ARTICLE XIII - EFFECTIVE DATE

This MOA shall become effective when signed by both USPS-OIG and USACE, and the parties hereby ratify any actions taken or liabilities incurred prior to the effective date of this agreement and in anticipation of executing this agreement.

U.S. Postal Service Office of Inspector General

JOHN M. SEEBA
Assistant Inspector General for
Financial Management

DATE: 11-28-01

U.S. Army Corps of Engineers

DAVID B. SANFORD, JR.
Chief, Interagency and International
Services Division

DATE: 11-28-01