



Cooperative Agreements

for direct assistance to non-federal governments during floods

U.S. ARMY CORPS OF ENGINEERS

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Background

The U.S. Army Corps of Engineers (Corps) Walla Walla District may provide emergency assistance to non-federal governments under Public Law (PL) 84-99 during a flood event. After the District Commander issues a flood emergency declaration, technical, material and direct assistance may be provided to save lives and protect improved properties. Direct assistance consists of small construction projects, completed expeditiously, for emergency levee repairs or raising, temporary levee construction, debris clearance, and so on.

Direct Assistance requires that the Corps have legal and unfettered access to non-federal property and lands, including private property. Under Corps regulations, we are required to provide Direct Assistance to a non-federal sponsor through a Cooperative Agreement (CA). Technical and material assistance do not require such an agreement.

A non-federal sponsor (NFS, or a public sponsor) is a non-federal government (city, county, state or tribe) who has requested assistance under PL 84-99 for their flood-response operations. Rehabilitation Assistance for damaged flood control works and Advance Measures also require a CA, but work under different timelines. However, any CA requires a non-federal sponsor.

A sample CA from a recent flood event is attached to this fact sheet. The actual CA will be prepared as circumstances and mission requirements dictate. The sample CA shows the minimum requirements that any potential NFS must agree to in order to obtain Direct Assistance support under PL84-99. These requirements include operational needs, liability acceptance and environmental compliance.



Who is the non-federal sponsor?

Non-federal governments have the primary responsibility for protecting lives and property during declared emergencies. Corps support during a flood emergency is supplemental to state and local efforts, and the impacted non-federal government must request that support before it can be provided. Accordingly, the requesting non-federal government must be capable of managing the incident to protect life and property for the flood emergency, in addition to meeting the CA requirements.

This will be problematic when a special-interest district (such as a highway, school or flood-control district) is involved. These agencies often lack the capability and resources to address all the needs that could impact large populations during a flood event. This includes, but is not limited to, public information, warnings, evacuation planning and requesting external resources. For these reasons, special interest districts are not viable as the NFS for a direct assistance CA during a declared emergency. Walla Walla District requires that the requesting non-federal government (city, county, state or tribe) be the NFS for all Direct Assistance requests. This constraint does not apply to any other CA required by Walla Walla District.

How the non-federal government works with special-interest districts to meet the needs of a Direct Assistance CA is subject to state and local laws, and should be pre-identified in local flood response plans.

Process

Direct Assistance CAs are developed during flood emergencies when time is of the essence and the construction must proceed as soon as possible. The CA must be in place and signed by both the Government and the NFS before any direct assistance begins. Walla Walla District expedites the internal process in anticipation of have the CA ready for signatures with 24-48 hours of an eligible Direct Assistance request.

This time frame is possible only when all parties know their roles and responsibilities, and actively cooperate with Walla Walla District. The District Readiness Office enables this by working with potential sponsors prior to flood season, and by training District employees on completing Direct Assistance CAs.

The most labor-intensive element for the NFS in a Direct Assistance CA is: *“Provide without cost to the Government all lands, easements, rights of ways, relocations, and borrow and dredged or excavated material disposal areas necessary for the work.”* Without the necessary easements or rights of way, there will be no Direct Assistance. District staff will work with the NFS to expedite the completion of the CA, but final completion rests upon the NFS. A sample CA, and a sample Right of Entry form, are attached to this fact sheet for reference.

The CA must be signed by the designated elected official(s) for the requesting non-federal government, and then will be signed by the District Commander. Walla Walla District responsibilities are:

- Readiness Office publishes and distributes this fact sheet, and briefs emergency management and elected officials on their roles and responsibilities to complete a CA during pre-flood season preparation. Readiness also works with the impacted jurisdictions to expedite any requests for assistance, through a flood team deployed to the area to support non-federal flood-response operations. In coordination with the NFS, the team will develop a scope of work, options for construction, and identify required easements and lands.

- Real Estate Division prepares the CA and other supporting documents for signature by the public sponsor and the District Commander following legal review. The CA is based on input from Readiness Office, and engineering and environmental subject matter experts, following recommendations from the on-location flood team.

- Regulatory Division: the Corps manages the water-quality program in coordination with state environmental agencies. Accordingly, the program is managed by assigning states to Corps districts. Walla Walla District’s Regulatory Program covers the state of Idaho, while Oregon is assigned to Portland District; Washington is assigned to Seattle District; and Wyoming to Omaha District. If assistance is requested in a location within Walla Walla District’s operational jurisdiction, yet outside of Idaho, Readiness staff will inform the Regulatory office(s) of the assigned district(s) that a CA is being processed, the situation, and put them in contact with the NFS to identify permits required under the CA. Regulatory often uses national and regional permits developed in coordination with other environmental agencies. These allow certain activities to proceed without further environmental review when specific emergency criteria are met.

- Environmental Compliance, Planning Branch: If the Direct Assistance is not within the scope of the national and regional permits managed through Regulatory Division, a broader environmental review under the National Environmental Protection Act (NEPA) is required. This could delay the start of any Corps assistance. While the bulk of the permitting work in cases like this falls upon the Walla Walla District, the NFS may be involved to some degree, depending on the findings of the NEPA review.

After the Direct Assistance is complete

The NFS assumes full responsibility for all aspects of the Direct Assistance, including any follow-on permits, required mitigation and removal of any temporary work.

Other information and references

These additional information resources discuss related aspects of Corps authorities. Contact Readiness Office for copies, or view/download them from our webpage <http://www.nww.usace.army.mil/Missions/Flood-Assistance/>.

- Requesting Emergency Assistance: Information for non-federal emergency management agencies
- Levee Rehabilitation: Repair of flood control projects damaged by a flood
- Advance Measures Program: Addressing flood impacts before there’s a flood
- Walla Walla District Regulatory Pocket Guide (applicable only to the State of Idaho)
- Walla Walla District Flood-Fight Handbook (available electronically only)

How to reach us

Contact Walla Walla District Readiness Office for assistance prior to or during a flood event. Business hours are 7:30 a.m. to 4 p.m., Monday through Friday – call 509-527-7146 or email cenww-eoc@usace.army.mil. After business hours, contact the Duty Officer at 1-509-380-4538 (to assure contact, dial all 11 digits, even within the 509 area code).

When contacting us during an emergency, please be ready to discuss your current situation, your response operations and what support you need. Our staff is also available to answer questions prior to floods.

U.S. ARMY CORPS OF ENGINEERS – WALLA WALLA DISTRICT

201 North 3rd Avenue; Walla Walla, WA 99362

www.nww.usace.army.mil

November 2017

DACW68-9-17-15

Ada County Agreement No. 12182

COOPERATION AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
And
ADA COUNTY, IDAHO
For
EMERGENCY ASSISTANCE (FLOOD FIGHT)

THIS AGREEMENT, entered into this 5th day of April, 2017,
by and between **THE DEPARTMENT OF THE ARMY** (hereinafter referred to as the
"Government") acting by and through the District Engineer, Walla Walla District, U.S.
Army Corps of Engineers, and the **ADA COUNTY, IDAHO** (hereinafter referred to as
the "Public Sponsor"), represented by the Chairman of Ada County Commissioners.

WITNESSETH THAT:

WHEREAS, 33 USC 701n authorizes the Government to provide emergency
assistance (e.g., flood fight efforts); and

WHEREAS, the Public Sponsor has requested assistance under 33 USC 701n, and
the Public Sponsor qualifies for such assistance in accordance with the established
policies of the U.S. Army Corps of Engineers; and

WHEREAS, the Public Sponsor hereby represents that it has the authority and legal
capability to furnish the non-Federal cooperation hereinafter set forth and is willing to
participate with the terms of this agreement.

NOW, THEREFORE, the parties agree as follows:

1. The Government will perform the work described in its scope of work (attached
hereto as **EXHIBITS A and B**) and made part of this agreement. Assistance during
flood fighting operations will be of a temporary nature to meet the immediate threat and
to supplement state and local efforts.

2. The Public Sponsor will:

a. Provide without cost to the Government all lands, easements, rights-of-ways, relocations, and borrow and dredged or excavated material disposal areas necessary for the work.

b. Hold and save the Government free from damages arising from construction, operation, maintenance, repair, replacement, and rehabilitation of the work, except damages due to the fault or negligence of the Government or its contractors.

c. Operate, maintain, repair, replace, and rehabilitate the completed work in a manner satisfactory to the Government.

d. Remove, at no cost to the Government, all temporary work constructed by the Government. Removal must be initiated within 30 days after the conclusion of the flood event. If the Public Sponsor desires to retain any temporary flood fight structures after the immediate flood threat has passed, the structure must be upgraded to meet requirements of the permanent structure and, if not a Federal project, meet the requirements for Active status in the Rehabilitation and Inspection Program. Actions to initiate upgrade of the works must be initiated within 30 days after the conclusion of the flood event. The upgraded project must comply with all local and/or Federal permits, environmental concerns, and all legal requirements.

e. Obtain all applicable permits required by Federal, state, county and municipal laws, ordinances and regulations wherein the premises are located.

3. ATTACHMENTS:


a. **EXHIBIT A-** Government Scope of Work

b. **EXHIBIT B-** Map

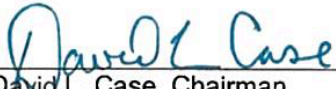
IN WITNESS WHEREOF, the parties hereto have executed this agreement of the day and year first above written.

THE DEPARTMENT OF THE ARMY
US Army Corps of Engineers
Walla Walla District
201 North 3rd Avenue
Walla Walla, WA 99362

ADA COUNTY, IDAHO
Ada County Courthouse
200 W. Front Street
Boise, ID 83702

BY: 

for Damon A. Delarosa
Lieutenant Colonel, Corps of Engineers
District Commander

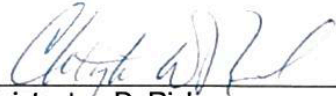
BY: 

David L. Case, Chairman
Ada County Commissioner

DATE: April 5, 2017

DATE: April 5, 2017

ATTEST:



Christopher D. Rich,
Ada County Clerk

COOPERATIVE AGREEMENTS FOR DIRECT ASSISTANCE TO NON-FEDERAL GOVERNMENTS DURING FLOODS
RIGHT OF ENTRY FORM EXAMPLE

The undersigned, hereinafter called the "Owner," hereby grants to [NAME OF NON-FEDERAL SPONSOR] and its assigns, including the U.S. Army Corps of Engineers and its contractors and subcontractors, an irrevocable right to enter upon the lands hereinafter described at any time within a period of _____ () months to conduct emergency flood fight operations, and also agrees to:

1. Hold and save [NAME OF NON-FEDERAL SPONSOR], and its assigns, including the U.S. Army Corps of Engineers and its contractors and subcontractors, free from damages arising from construction, operation, maintenance, repair, replacement, and rehabilitation of the work, except damages due to the fault of the and its assigns, including the U.S. Army Corps of Engineers and its contractors and subcontractors.
2. Allow the right of ingress and egress on other lands of the Owner not described below, provided such ingress and egress is necessary and not otherwise conveniently available.

The land affected by this right-of-entry is located in the State of [STATE], County of [COUNTY], and is described as follows:

WITNESS MY HAND AND SEAL this _____ day of _____, 20_____.

OWNER(s):

[NON-FEDERAL SPONSOR]

BY:

[SIGNATURE]

[TITLE]