

MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES ARMY CORPS OF ENGINEERS (USACE)
AND
THE UNITED STATES AIR FORCE (USAF)
AND
CIVIL AIR PATROL (CAP)
FOR
CAP/AIR FORCE AUXILIARY (AFAUX) SUPPORT
AGREEMENT NUMBER – 2015-02

This Memorandum of Agreement (MOA) sets forth procedures and practices for cooperation between the United States Army Corps of Engineers (USACE) and the Headquarters U.S. Air Force (USAF), Deputy Chief of Staff, Operations (AF/A3), and Civil Air Patrol, while acting in its capacity as an Air Force Auxiliary (AFAUX), through which the USACE will pay USAF to provide support under the Economy Act for the collection and delivery of aerial imagery and similar requested support. When referred to collectively, the USACE, USAF and CAP are referred to as the “Parties”.

1. BACKGROUND:

- 1.1. AF/A3 is authorized to enter into agreements on behalf of the United States Air Force for the services of the Civil Air Patrol (CAP) when CAP operates in its Air Force Auxiliary (AFAUX) status to provide aerial assessments/survey flights and other requested support.
- 1.2. The mission of the U.S. Army Corps of Engineers is to provide vital public and military engineering services; partnering in peace and war to strengthen our Nation’s security, energize the economy and reduce risks from disaster.
- 1.3. CAP is a federally chartered, non-profit corporation that can serve in either corporate or AFAUX status. When CAP is performing non-combat, Air Force assigned missions (AFAM) it is operating in an AFAUX status. All missions contemplated by this MOA with the USACE will be AFAMs conducted IAW applicable USAF regulations, and thus CAP will be operating in AFAUX status at all times pertinent to this agreement.
- 1.4. The appropriate Numbered Air Force Commander (NAF/CC), his or her designee, or Component Major Command (C-MAJCOM)/A3 serves as the USAF mission approval authority for AFAMs accomplished pursuant to this MOA. In the Continental United States (CONUS), Puerto Rico and the United States Virgin Islands, the NAF/CC is the 1st Air Force Commander; in Alaska, the NAF/CC approval authority is the 11th Air Force Commander and in Hawaii, the C-MAJCOM approval authority is the PACAF/A3.

- 1.5. Civil Air Patrol-United States Air Force (CAP-USAF) is the Air Force organization responsible for ensuring CAP is organized, trained and equipped to fulfill approved AFAMs in accordance with (IAW) Air Force Policy Directive (AFPD) 10-27, Air Force Instruction (AFI) 10-2701 and Civil Air Patrol-United States Air Force Instruction (CAP-USAFI) 10-2701. CAP-USAF may provide liaison personnel to provide advice, assist, and oversee CAP's involvement in this MOA IAW AFI 10-2701.
2. AUTHORITIES: The USAF and CAP enter into this MOA and agree to provide the services identified herein pursuant to the following authorities:
 - 2.1. 31 U.S.C. § 1535, The Economy Act
 - 2.2. 28 U.S.C. § 1346(b) and 2671-2680, Federal Tort Claims Act (FTCA)
 - 2.3. 5 U.S.C. Chapter 81, Federal Employees Compensation Act (FECA)
 - 2.4. 10 U.S.C. § 9441 et seq (Describes how CAP is an AFAUX when "used by any department or agency in any branch of the Federal government".)
 - 2.5. 36 U.S.C. § § 40301 – 40307, Civil Air Patrol
 - 2.6. DOD Regulation 7000.14-R, DOD Financial Management Regulations (FMR), Vol. 11A
 - 2.7. DOD Instruction (DODI) 4000.19, Interservice and Intragovernmental Support
 - 2.8. AFPD 10-27, *Civil Air Patrol*
 - 2.9. AFI 10-2701, *Organization and Function of the Civil Air Patrol*
 - 2.10. CAP-USAFI 10-2701, *Civil Air Patrol Operations and Training*
 - 2.11. CAP Regulation (CAPR) 60-1, *Civil Air Patrol Flight Management*
 - 2.12. CAPR 60-3, *CAP Emergency Services Training and Operational Missions*
 - 2.13. CAPR 173-3, *Payment for Civil Air Patrol Support*
3. PURPOSE:
 - 3.1. USAF, upon request, and subject to appropriate NAF or C-MAJCOM approval, may assign missions to CAP to provide light powered aircraft, aircrews, and communications support for the U.S. Army Corps of Engineers to assist with aerial assessments/survey flights and provide aerial imagery or similar requested

and legally authorized support. All support under this agreement will be provided on a reimbursable basis.

3.2. Nothing in this MOA shall be construed to require the U.S. Army Corps of Engineers to use the USAF, to include CAP, or to require the USAF or CAP to provide any goods or services to the U.S. Army Corps of Engineers, except as may be set forth in Support Agreements ("SA(s)").

4. ROUTINE REQUESTS:

4.1. Coordination for mission planning and execution remains with U.S. Army Corps of Engineers and CAP. A U.S. Army Corps of Engineers designee will provide mission requirements, such as date(s), time(s), location(s), survey routes, payload (passengers and/or cargo), and other mission support details or requirements as appropriate.

4.2. In response to requests from the U.S. Army Corps of Engineers for USAF assistance under this MOA, the U.S. Army Corps of Engineers and the USAF shall conclude mutually agreed upon written SAs. Those SAs must be documented on a Department of Defense Form 1144 or a similar document, which contains the same information as Department of Defense Form 1144.

4.3. ECONOMY ACT DETERMINATIONS AND FINDINGS: In executing a SA both USAF and USACE also certify that any required written Economy Act Determinations and Findings (D&F) have been completed. For agreements between DoD activities, a properly documented and signed DD Form 1144 serves as the D&F, and no further written determinations are required IAW DoD FMR Vol. 11A, Ch. 3. If a properly documented and signed DD Form 1144 is not used, a separate D&F must be completed before execution of the SA.

SAs must include:

- a. Date/time/location of requested support;
- b. A detailed scope of work describing the requested support (i.e. flight only, aerial photographs, spotting, transportation, etc.);
- c. Schedules;
- d. Funding arrangements, including whether payment shall be in advance or by reimbursement;
- e. The amount of funds required and available to accomplish the scope of work as stated above;

- f. The U.S. Army Corps of Engineers' fund citation and the date upon which the cited funds expire for obligation purposes;
- g. Information regarding the requester to include:
 - I. Name and title of request
 - II. Division Office or Section (within U.S. Army Corps of Engineers)
 - III. Telephone numbers (mobile/landline/fax)
 - IV. E-mail address
 - V. Other pertinent information (i.e. contact, Federal passengers, etc.);
- h. Identification of individual project managers;
- i. Types and frequencies of reports;
- j. Identification of which party is to be responsible for government-furnished equipment; records maintenance; rights to data, software, and intellectual property;
- k. Procedures for amending or modifying the SA; and
- l. Such other particulars as are necessary to describe clearly the obligations of the USAF and USACE with respect to the requested goods and services.

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

4.5. AVAILABILITY OF FUNDS: This MOA does not obligate or document the obligation of funds. Any obligation of funds in support of this MOA will be accomplished by executing a SA consistent with the guidance in item 4.3 of this MOA and a Military Interdepartmental Purchase Request, DD Form 448.

4.6. MISSION VALIDATION: U.S. Army Corps of Engineers' requests for goods and services under this MOA will be simultaneously forwarded to the appropriate AFAM-approving NAF or C-MAJCOM and the CAP National Operations Center (NOC) as soon as practical (refer to Annex A for the NOC's contact information.); for non-immediate routine support, Parties will plan ahead and file requests several days in advance (one week preferable) to ensure adequate time to approve request through the normal ATO (Air Tasking Order) process.

4.7. GRANTS OFFICER VALIDATION: The CAP-USAF Grants Officer must approve the funding prior to the execution of missions described in each SA. The Grants Officer will modify the Cooperative Agreement only after receipt of a

package which has been validated by HQ CAP-USAF and with a SA (or equivalent document) containing the Mission Support Request, Operational Plan, Cost Estimate and MIPR, DD Form 448 (or equivalent) as required in item 4.3 of this Agreement. Receipt of annual funding document must provide advance lead time (3-4 weeks prior to first mission start) to ensure CAP-USAF Grants Officer approval and modification to the Cooperative Agreement between the USAF and CAP is completed. CAP-USAF will process an amendment to the Cooperative Agreement to return any excess funds to USACE at the end of their period or availability when requested by USACE. All other financial related matters are delegated to appropriate organizational USAF Financial Management offices to ensure timely execution of missions.

4.8. MISSION EXECUTION: CAP NOC will contact the tasked wing, and the CAP-assigned Incident Commander (IC) from that wing will be responsible to schedule and activate CAP resources to complete the mission as soon as practical. Mission requests, CAP Point of Contact (POC) information and detailed sortie information will be entered into the CAP Web Mission Information Reporting System (WMIRS). CAP will provide U.S. Army Corps of Engineers access to CAP WMIRS to track mission details and results.

4.9. EMERGENCY REQUESTS: USACE will call the CAP NOC duty officer when making emergency requests for support to avoid unnecessary delays. Immediate response missions normally will be supported within 24 hours.

5. RESPONSIBILITIES OF USAF AND USACE:

5.1. Responsibilities of the USAF

- 5.1.1. The USAF shall provide the U.S. Army Corps of Engineers with goods or services in accordance with the purpose, terms, and conditions of this MOA and with specific requirements set forth in SAs and implementing arrangements.
- 5.1.2. The USAF shall identify authorized USAF representatives to sign SAs.
- 5.1.3. The USAF shall use its best efforts to provide goods or services through in-house efforts. The USAF, through CAP, will provide light powered aircraft, personnel, ground vehicles, and communications support to accomplish approved missions. USAF will ensure compliance with any applicable law, regulation, or guidance regarding the collection of any aerial imagery. The USAF shall provide detailed periodic progress, financial and other reports to the U.S. Army Corps of Engineers consistent with terms agreed to in the SA. Financial reports shall include information on all funds received, obligated, and expended, and on forecast obligations and expenditures.

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

- 5.2.1. The U.S. Army Corps of Engineers shall certify, prior to the execution of each SA under this MOA, that the SA complies with the requirements of the Economy in Government Act.
- 5.2.2. The U.S. Army Corps of Engineers shall pay all costs associated with the USAF's provisions of goods or services under this MOA and shall certify, at the time of signature of a SA, the availability of funds necessary to accomplish that SA.
- 5.2.3. The U.S. Army Corps of Engineers shall ensure that authorized U.S. Army Corps of Engineers contracting officers sign SAs.
- 5.2.4. The U.S. Army Corps of Engineers shall develop draft SAs to include scope of work statements.

6. CONSTRAINTS AND LIMITATIONS: Missions performed under this MOA are limited as follows:

- 6.1. USAF and CAP participation with U.S. Army Corps of Engineers is restricted to missions defined in AFI 10-2701 and subject to provisions of the Economy Act, 31 U.S.C. § 1535, and CAP Regulations.
- 6.2. Targeting or surveillance of persons, groups of persons, buildings, or vehicles is not authorized. CAP is not an intelligence gathering organization, has no assigned intelligence mission, and will not engage in intelligence activities.
- 6.3. Except for life-saving missions, missions for the DOD take precedence over missions performed IAW the provisions of this MOA. USAF will promptly inform the U.S. Army Corps of Engineers of any delays or potential delays.
- 6.4. The area of support is limited to the United States (including Alaska and Hawaii), Puerto Rico and the U.S. Virgin Islands.
- 6.5. All missions under this MOA will be conducted by CAP as non-combat, non-law-enforcement, and non-intelligence.
- 6.6. This MOA and all documents and actions accomplished pursuant to it shall be governed by the applicable statutes, regulations, directives, and procedures of the United States.
- 6.7. USAF retains AFAM approval authority at all times including the authority to extend, modify and/or terminate such missions.
- 6.8. Flight operations will be conducted IAW CAPRs, Federal Aviation Regulations, USAF-approved regulations and directives.
- 6.9. Any party to this MOA may suspend a mission in the event unsafe operational conditions exist.

7. PERSONNEL: IAW 10 U.S.C. § 9442(b), AFAUX volunteers are deemed to be instrumentalities of the United States with respect to any act or omission of CAP in carrying out an AFAM. AFAM approval must be obtained IAW procedures outlined in AFI 10-2701 prior to each mission in support of the USACE. Subject to the reimbursement provisions below, each party retains responsibility for all costs of its personnel, including pay and benefits, support, and travel. Each Party is responsible for supervision and management of its own personnel. Ensuring AFAM approval prior to CAP commencing work is a USAF responsibility.

8. LIABILITY:

8.1. Any FECA actions involving USAF and/or CAP personnel arising out of AFAMs performed by CAP IAW this MOA shall be processed by the Department of Labor in coordination with the USAF. FECA actions involving U.S. Army Corps of Engineers personnel arising from CAP missions approved through this MOA shall be processed by the Department of Labor in coordination with the U.S. Army Corps of Engineers and U.S. Army Criminal Investigation Command, as appropriate.

8.2. All tort claims against the United States for injuries or damages incurred through implementation of this MOA will be determined IAW the FTCA, 28 U.S.C. § 2671.

8.3. If liability, other than tort liability is imposed on the United States relating to the USAF's provision of goods or services under this MOA, the USAF will accept accountability (not to be construed as publicly admitting liability) for its actions, but the U.S. Army Corps of Engineers shall remain responsible as the program proponent for providing such funds as are necessary to discharge the liability, 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 U.S. Army Corps of Engineers 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, subject to OMB approval. Nothing in this MOA shall be construed to imply that Congress will, at a later date, appropriate funds sufficient to meet the deficiencies.

8.4. In accordance with USAF policies and procedures, the USAF will investigate, decide the merits of a claim IAW its administrative claims procedures, and coordinate litigation strategies with the Department of Justice for claims alleging injuries or damages arising out of AFAMs conducted under this MOA.

8.5. Notwithstanding the above provisions, this MOA does not confer any liability upon the U.S. Army Corps of Engineers for claims payable by USAF and/or

CAP under the Federal Tort Claims Act,, unless such claims are required to be paid from agency funds.

8.6. Provided further that nothing in this MOA 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 MOA.

9. POINTS OF CONTACT:

9.1. Copies of all applicable correspondence and reports will be furnished to all points of contact listed in Annex A.

9.2. Justification and explanation of the U.S. Army Corps of Engineers' programs before Congress and other agencies, departments, and offices of the Federal Executive Branch shall be the responsibility of the U.S. Army Corps of Engineers. The USAF may provide, upon request, any assistance necessary to support the U.S. Army Corps of Engineers' justification or explanations of the U.S. Army Corps of Engineers' programs conducted under this MOA. In general, the U.S. Army Corps of Engineers is responsible for all public information. The USAF may make public announcements and respond to all inquiries relating to the ordinary administration process. The U.S. Army Corps of Engineers or the USAF 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 MOA.

10. FINANCIAL DETAILS

10.1. The U.S. Army Corps of Engineers shall pay all costs associated with the USAF's provision of goods or services under this MOA. U.S. Army Corps of Engineers shall provide HQ CAP-USAF/TM with a suitable funding document, which should cite this MOA. Any funding document must be received with advance lead time (3-4 weeks prior to first mission start) to ensure completion of the USAF approval process as missions using those funds cannot start until the process is complete.

10.2. If the USAF forecasts its actual costs under a SA to exceed the amount of funds available under that SA, it shall promptly notify the U.S. Army Corps of Engineers of the amount of additional funds necessary to complete the work under that SA. The U.S. Army Corps of Engineers shall either provide the additional funds to the USAF, 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.

10.3. Within 90 days of completing the work under a SA, the USAF shall conduct an accounting to determine the actual costs of the work. Within 30 days of completion of this accounting, the USAF shall return to the U.S. Army Corps of

Engineers any funds advanced in excess of the actual costs as then known, or the U.S. Army Corps of Engineers shall provide any additional funds necessary to cover the actual costs as then known. Such an accounting shall in no way limit the U.S. Army Corps of Engineers' duty to pay for any costs, which may become known after the final accounting.

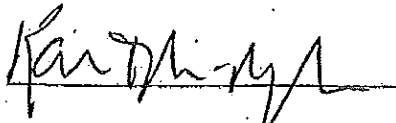
- 10.4. The USAF shall bill the U.S. Army Corps of Engineers monthly for costs incurred using Standard Form (SF) 1080, Voucher for Transfers Between Appropriations and/or Funds. U.S. Army Corps of Engineers will use the Intra-Governmental Payment and Collection System (IPAC) to reimburse USAF.
- 10.5. Assignment of an AFAM number by CAP commits USACE to reimbursement for any expenses incurred by CAP for the AFAM. USACE will reimburse CAP for actual costs of services provided by CAP for AFAMs. In the event USACE cancels a mission after a mission number has been assigned, USACE is responsible for reimbursing CAP for any and all costs incurred for the mission prior to cancellation, plus any termination costs (any and all costs associated with the administrative processing of a cancellation once a mission number has been assigned). Cancellation of an AFAM must be in writing. The total reimbursement, including termination costs, for cancellation of AFAMs in a fiscal year will not exceed the amount funds transferred via Cooperative Agreement for missions conducted for USACE for that fiscal year.

11. GENERAL PROVISIONS

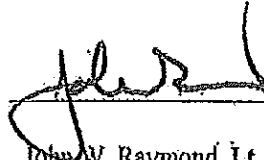
- 11.1. REVIEW OF AGREEMENT: This MOA will be reviewed annually on or around the anniversary of its effective date for financial impacts and triennially in its entirety.
- 11.2. MODIFICATION OF AGREEMENT: This MOA may only be modified by the written agreement of the Parties, duly signed/dated by their authorized representatives. Headquarters Air Force, Air Force Auxiliary Integration and Requirements Branch Chief (AF/A3OA) is authorized to approve, on behalf of the Air Force Deputy Chief of Staff, Operations, minor modifications to this agreement that are consistent with the overall intent of this MOA.
- 11.3. DISPUTES: The Army Corps of Engineers and USAF shall use their best efforts to resolve any dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the USAF and USACE. Should disagreement arise on the interpretation of the provisions of this MOA, or subsequent amendments or revisions, which cannot be resolved at the operating level, then USAF and USACE will document the area(s) of disagreement in writing and present the same to the next appropriate leadership level(s). The USAF and USACE agree that, in the event such measures fail to resolve the dispute within 30 calendar days, they shall refer it for resolution to the Office of the Secretary of Defense.

- 11.4. **TERMINATION OF AGREEMENT:** This MOA may be terminated by any Party by giving at least 180 days written notice to the other Parties. The MOA may also be terminated at any time upon the mutual written consent of the Parties.
- 11.5. **TRANSFERABILITY:** This Agreement is not transferable.
- 11.6. **ENTIRE AGREEMENT:** It is expressly understood and agreed that this MOA embodies the entire agreement between the Parties regarding the MOA's subject matter.
- 11.7. **EFFECTIVE DATE:** This MOA takes effect beginning on the day after the last Party signs.
- 11.8. **EXPIRATION DATE:** This Agreement expires five (5) years from the date this MOA becomes effective.
- 11.9. **CANCELLATION OF PREVIOUS AGREEMENT:** N/A
- 11.10. **OTHER RELATIONSHIPS OR OBLIGATIONS:** This MOA shall not affect any pre-existing or independent relationships or obligations between the Parties.
- 11.11. **SURVIVAL:** Those 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.
- 11.12. **SEVERABILITY:** Nothing in this MOA is intended to conflict with current DOD, U.S. Army Corps of Engineers, USAF or CAP directives, instructions, and/or regulations. 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.

M. Acceptance of Agreement:



Karen Durham-Aguilera, P.E., SES
Director of Contingency Operations and
Homeland Security
Headquarters, U.S. Army Corps of Engineers
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John W. Raymond, Lt. Gen., USAF
Deputy Chief of Staff
Operations
United States Air Force
U.S. Department of Defense
1480 Air Force Pentagon
Washington, DC 20330-1480

25 Sep 2015
(date)

15 Sep 15
(date)



Joseph R. Vazquez, Maj Gen, CAP
National Commander
Civil Air Patrol
105 South Hansell Street
Maxwell AFB, AL 361 12-5937

30 Sept 2015
(date)

**ANNEX A
POINTS OF CONTACT**

U.S. Army Corps of Engineers
HQ USACE G3
441 G Street NW
Washington, DC 20314
202-761-1001
FAX: 202-761-0378

AF/A300
Headquarters Air Force, Air Force Operations Group
Chief, Air Force Auxiliary Integration and Requirements Branch
1480 Air Force Pentagon 5D756
Washington, DC 20330-1480
202-767-3409/DSN 297-3409/Fax 703-692-6004
usaf.pentagon.af-a3.mbx.a3oo-workflow@mail.mil

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105 South Hansell Street, Building 714
Maxwell Air Force Base, AL 36112-5937
334-953-6987/DSN 493-6987/Fax 334-953-4246
capusaf.cc.maxwell@us.af.mil

Civil Air Patrol, National Operations Center
Chief, National Operations Center
888-211-1812, ext. 300/334-953-5000, ext. 300/
Fax 800-555-7902
opscenter@capnhq.gov

601st Air Operations Center
Senior Operations Duty Officer
850-283-5573/DSN 523-5573/Fax 850-283-3829
601aoc.codsodoomb@us.af.mil

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176th Air Defense Squadron-Mission Crew Commander
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