

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
Washington, D.C. 20314-1000

CECW-I

Regulation
No. 1140-1-211

22 June 1992

Work for Others
SUPPORT FOR OTHERS: REIMBURSABLE WORK

1. Purpose. This regulation provides guidance on USACE performing reimbursable work for non-DOD Federal agencies, States, Commonwealths, Territories, and local governments of the United States. This work is further defined and described in paragraphs 4 and 5, and shall be known as the "Support for Others" (SFO) Program.
2. Applicability. This regulation applies to HQUSACE/OCE elements, major subordinate commands, districts, and field operating activities (FOA).
3. References.
 - a. 10 U.S.C. 3036(d)
 - b. 31 U.S.C. 1535
 - c. 31 U.S.C. 6505
 - d. P.L. 93-288, Disaster Relief and Assistance Act (88 Stat. 143, 42 U.S.C. 5121)
 - e. P.L. 95-269 (91 Stat. 218-1-219)
 - f. OMB Circular A-97 Revised, Rules and regulations permitting Federal agencies to provide specialized or technical services to State and local units of government under Title III of the Intergovernmental and Cooperation Act of 1968

This regulation supersedes ER 1140-1-211, 7 Jan 88

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g. DOD Instruction 7730.53, Specialized or Technical Services Provided by Department of Defense Components to State and Local Units of Government

h. AR 37-1, Army Accounting and Fund Control

i. AR 415-28, Department of the Army Facility Classes and Construction Categories

j. ER 1-1-6, Transfer of Missions & Functions Providing & Obtaining Support Services

k. ER 5-7-1(FR), Project Management, Advance Copy

l. ER 37-2-10, Accounting and Reporting Civil Works Activities

m. ER 37-345-10, Accounting and Reporting - Military Activities

n. ER 70-1-5, Corps of Engineers Research and Development Program

o. ER 405-1-12, Real Estate Handbook

p. ER 415-2-4, Corps Support for EPA Construction Grants Program

q. ER 500-1-1, Natural Disaster Procedures

r. ER 550-1-1, International Agreements

s. ER 1105-2-100, Planning Guidance Notebook

t. ER 1110-2-500, Corps/EPA Superfund Program Funding and Reporting Requirements

u. ER 1165-2-30, Acceptance and Return of Required, Contributed or Advanced Funds for Construction or Operation

4. Definitions.

a. Memorandum of Agreement (MOA). A written agreement between the U.S. Army and another Federal agency, State or local government, for transferring a technical mission to the U.S. Army Corps of Engineers (USACE)

or the assignment of future technical work with funds to USACE. Support for others arrangements will generally be defined in an MOA. When the MOA does not address specific projects and/or resources, a Support Agreement will generally be prepared to supplement the MOA.

b. Interagency Agreement. A numbered form, which may include a narrative addendum, co-signed by appropriate representatives of the U.S. Army and the other agency, by which specific technical, administrative and/or logistical support is provided by the USACE with funds provided by the other agency, state or local government. ENG Form 4914-R, U.S. Army Corps of Engineers Interagency Agreement (Appendix A) or similar interagency agreement document (from another agency) must be used for this purpose. ENG Form 4914-R may be locally reproduced.

c. Support for Others (SFO). SFO includes work performed by USACE under applicable Federal law and funded by non-Department of Defense (DOD) Federal agencies, and State and/or local governments of the U.S. For purposes of this regulation, the term "states" includes any of the 50 States of the United States, plus the District of Columbia; the Commonwealths of Puerto Rico and Northern Mariana Islands; the Territories of the U.S. Virgin Islands, Guam and American Samoa.

5. SFO Program Coverage.

a. Work covered by this regulation. Includes the work as defined in paragraph 4c above and as further outlined and described below.

(1) Non-DOD Federal agencies. The Economy Act (31 U.S.C. 1535) and 10 U.S.C. 3036(d) give USACE authority to provide reimbursable services to non-DOD Federal agencies.

(2) State and local governments of the U.S. The Intergovernmental Cooperation Act (31 U.S.C. 6505) and 10 U.S.C. 3036(d) give USACE authority to provide reimbursable services to State and local governments. ER 1165-2-30 describes existing authorities for acceptance and for return of appropriate portions of required cash contributions or advanced funds for performing work for State and local governments in connection with authorized civil works projects.

b. Work not covered by this regulation. This regulation is not applicable to the activities outlined below.

(1) USACE legislatively mandated programs. SFO does not include activities for which USACE receives funds directly from Congress.

(2) Emergency work.

(a) Emergency work requested by the Director, Federal Emergency Management Agency, or by the Director's authorized representative, under the provisions of Public Law 93-288, and performed in accordance with ER 500-1-1.

(b) Emergency dredging work performed under the provisions of Public Law 95-269. This work shall be reported to CDR HQUSACE (CECW-OD) Washington, D.C. 20314-1000 upon completion.

(c) Other emergency work such as cleanup of spills or emergency relocations.

(3) Work for DOD agencies. The SFO Program and this regulation are not applicable to work for DOD agencies. NOTE: National Guard activities are considered DOD activities and therefore are not part of the SFO Program.

(4) Reimbursable assistance by USACE laboratories. This regulation is not applicable to this work, except for general resource accounting guidance of Appendix B. ER 70-1-5 is applicable to this work.

(5) Foreign military sales and security assistance programs.

(6) Other assistance to foreign nations.

(7) Private entities.

6. Guidance on Considering SFO Opportunities.

a. General. Within the guidelines listed below, USACE Commands and members are encouraged to be active participants in the program by:

(1) applying the engineering and other related capabilities of USACE to accomplish missions of national significance;

(2) maintaining or enhancing USACE ability to perform its assigned missions or enhancing USACE capabilities to respond to new challenges consistent with USACE's purpose.

b. Criteria for evaluating potential requests for Support for Others work. (See Appendix C.)

c. Management objectives. Potential clients should be advised at the outset of discussions that the SFO work performed for them by the USACE will be managed following the Project Management Policies and Procedures specified in ER 5-7-1(FR), as appropriate, including assignment of a project manager, monitoring and accountability for costs and schedules, and upward reporting through the appropriate channels to HQUSACE. While the primary objective is to provide the client a quality product, on time, and within the established budget, other equally important objectives that the potential client should be cognizant of include:

(1) Use of the full breadth of USACE technical and project management skills and review procedures at the appropriate level. However, work may be accepted, and the client charged appropriately, where only one or a few of USACE technical skills are desired.

(2) Use of the design and construction talents of the private sector where feasible.

(3) Recognition that the client will retain responsibility for program planning, development, budgetary justification, and legal liability.

d. USACE responsibility to customers.

(1) maintaining open communications and frequent reporting; know what's going on and be heard;

(2) fostering a corporate spirit and personal attitude of cooperation;

(3) providing fair and reasonable answers;

(4) participating in meetings about the SFO work;

(5) ensuring meaningful participation in decisions about all aspects of the SFO work development, including a sharing, where desired by the client, of project planning, standards and execution;

(6) ensuring quality technical, managerial, and administrative work and products;

(7) fostering creativity and flexibility;

(8) not diluting the attention given to existing missions.

e. Competitive proposals. USACE Commands should not submit proposals in response to Requests for Proposals (RFP). USACE Commands should also not respond to requests for assistance when an agency is in the process of negotiating with a private firm for the same services without specific approval from HQUSACE.

7. Approval Authorities.

a. MSC authorities. Major Subordinate Commands (MSC) Commanders and heads of FOA are encouraged to accept reimbursable work when all the following conditions are met. MSC Commanders may delegate their authority to district commanders.

(1) The work must comply with the criteria checklist and accompanying instructions in Appendix C.

(2) The work can be accomplished within the existing MSC resource allocations until the next Forces Configuration (FORCON) or Corps of Engineers Resource and Military Manpower System (CERAMMS) cycle without compromising any goals or otherwise creating delays in the Corps civil works or military programs functions.

(3) The work will not require a commitment, regardless of the time period during which the work is performed, in excess of ten (10) work-years of USACE effort.

(4) The work is within the MSC's civil works boundary, unless other customer boundaries (e.g., Superfund) have been established by HQUSACE.

(5) Other applicable requirements of the Engineer Regulations referenced in paragraphs 3 and 8 of this regulation are met. ER 1-1-6 provides specific guidance on authorities.

b. HQUSACE/Army approval. Opportunities exceeding the authority cited in paragraph 7a may be approved by HQUSACE provided the opportunity requires a maximum cumulative commitment of less than 25 work-years of USACE effort, complies with criteria checklist, and falls within ASA(CW) aggregate resource ceilings. Opportunities exceeding HQUSACE authorities require approval of the Assistant Secretary of the Army (Civil Works).

8. HQUSACE Management of Selected Reimbursable Programs. Certain programs are centrally managed by HQUSACE. For these programs, USACE entities should undertake work in accordance with HQUSACE guidance for each program. Appendix D provides a listing of these programs.

9. HQUSACE Execution Oversight Authority. Oversight of SFO projects/activities which are not centrally managed by HQUSACE (Appendix D) will be accomplished by the Directorate of Military Programs or the Directorate of Civil Works. For work requiring HQUSACE or ASA(CW) approval, the appropriate directorate for oversight will be determined during the approval process. The MSC Commander will determine the directorate for oversight and upward reporting for work within the MSC Commander's approval authority, based on the guidelines below. SFO activities for which the appropriate oversight responsibility is unclear should be forwarded to CECW-ID for resolution.

a. Directorate of Military Programs. The Directorate of Military Programs will have execution oversight and project management responsibility for SFO projects which are typical of military construction and/or primarily vertical construction, as described in AR 415-28, Department of the Army Facility Classes and Construction Categories. Exceptions would be those facility types which are typical of the civil works program or for which the Directorate of Civil Works has special expertise (primary certain facility types contained in Category Codes 150 (Waterfront Operational facilities), 160 (Harbor and Coastal Facilities), and 871 (Grounds Drainage). Under these guidelines, projects under Military Programs oversight would include (but not be limited to) buildings, utilities, industrial facilities, underground facilities, medical facilities, nuclear weapons facilities, bridges and highways, pavements, wastewater treatment,

secure facilities, schools, aviation facilities, housing, steam power plants, space launch facilities, hazardous, toxic, and radiological waste, environmental restoration and waste management, and national cemeteries. SFO activities assigned to the Directorate of Military Programs will be managed in accordance with ER 5-7-1(FR), Project Management, as discussed in paragraph 14.h. below. All SFO projects for which the Directorate of Military Programs has execution oversight responsibility will be reported to HQUSACE in the Automated Management and Progress Reporting System (AMPRS). Within the Directorate of Military Programs, responsibility for SFO activities is assigned to CEMP-MD (Medical and Support for Others Branch, Project Management Division) except for environmental work which is assigned to CEMP-R (Environmental Restoration Division).

b. Directorate of Civil Works. The Directorate of Civil Works (CECW) will have execution oversight and project management responsibility for projects which are typical of the civil works program and/or horizontal construction, such as water resources (planning, design, construction, and operations), navigation, dredging, coastal engineering, tunnels, flood control, shore and harbor protection, port facilities, hydroelectric power facilities, environmental planning, regulatory functions, disaster recovery, emergency planning, magnetic levitation, and water supply. Also included will be those projects which are described in AR 415-28 but are facility types associated with the civil works program, as defined in paragraph 9.a. SFO activities assigned to the Directorate of Civil Works will be managed in accordance with ER 5-7-1(FR), Project Management, as discussed in paragraph 14.h. below. For those projects which will be included in the Civil Works Project Review Board reporting systems, project data will be included for the Life Cycle Reporting System (LRS). Within the Directorate of Civil Works, execution oversight responsibility for SFO activities is assigned to CECW-L (Life Cycle Project Management Division).

10. Work for State and Local Governments.

a. Work not involving Federal funding assistance. OMB Circular A-97 Revised (Appendix E) and DOD Instruction 7730.53 provide general guidance and define the scope of technical services which may be provided. This includes studies and planning activities, engineering and design (including plans and specifications), construction management assistance and training. Construction management assistance is limited to technical advice to improve State and local management capability in contract preparation, negotiating, and evaluation;

contract administration; quality assurance; and supervision and inspection. Commanders must concur in the certification required by paragraph 7c of Appendix E. USACE Commands may not acquire real estate nor be the construction contracting agency for a State or local government under 31 U.S.C. 6505. Questionable cases should be referred to CDR HQUSACE (CECW-ID) Washington, D.C. 20314-1000 for resolution.

b. Work involving Federal funding assistance. 10 U.S.C. 3036(d) provides authority for USACE to be the construction contracting agency for a State or local government, provided the work involves Federal funding assistance and the department or agency providing the Federal funding does not object to the provision of these services by USACE. The requesting entity must certify, in accordance with the procedures set forth in paragraph 7c of Appendix E that the services to be provided by USACE cannot be procured reasonably and expeditiously through ordinary business channels. The services would normally be those associated with Government management functions which involve the exercise of discretion in applying Government authority and the use of value judgments in project management in the role of contracting officer.

11. Personnel Resourcing. Work initiated after staffing allocations have been made for the fiscal year will be resourced from within division staffing allocations. For subsequent fiscal years, the work must be included in the FORCON or CERAMMS submittals, as appropriate, following the guidance in Appendix B.

12. Funding. As a general principal, USACE should recover all applicable reimbursable costs for SFO work. For non-Federal reimbursable work, funds must be on deposit with the Treasury in advance of USACE Commands incurring obligations for the work, in accordance with AR 37-1, unless there is specific statutory authority to the contrary. Major funding transfers from Federal agencies will be accomplished by using SF 1151, Nonexpenditure Transfer Authorization. The SF 1151 will be prepared and forwarded by the transferring agency through the U.S. Treasury to CDR HQUSACE (CERM-FC) Washington, D.C. 20314-1000 for allotment. For individual taskings less than \$250,000 in total or less than \$50,000 in contracts, funding will be provided by reimbursable order with billings to be made by either SF 1080, Voucher for Transfers Between Appropriations and/or Funds, or SF 1081, Voucher and Schedule of Withdrawals and Credits. Funding may also be accomplished by use of a direct fund cite from the Federal agency.

13. Finance, Accounting and Manpower. Financing and accounting for support for others shall be in accordance with ER 37-2-10 and other appropriate staffing and financial AR's listed in paragraph 3 of this regulation. Non-DOD funded national defense activities will in most cases be classified as military reimbursable projects for the purpose of financial management. Guidelines for classifying support for others are outlined in Appendix B.

14. Notification and Approval Procedures.

a. Work approved within MSC Commanders authority. Following acceptance of the work (within 30 days) USACE Commands will provide information including the scope, estimated staffing requirements, and Circular A-97 certification with Commander concurrence where applicable (see paragraphs 10a and 10b above) to CDR HQUSACE (CECW-ID) Washington, D.C. 20314-1000. CECW-ID will distribute the information within HQUSACE as appropriate.

b. Work within HQUSACE approval authority. When it appears that the work exceeds the approval authority of the MSC, the MSC Commander shall submit an approval request to CDR HQUSACE (CECW-ID) Washington, D.C. 20314-1000. The request should address the nature of the work, the USACE role in the work, projected resource requirements (dollars and work-years of effort), Circular A-97 certification where applicable (see paras 10a and 10b above) and USACE entity implementation plans. CECW-I will coordinate the request within HQUSACE as necessary. Requests will be expeditiously processed.

c. Work requiring ASA(CW) approval. CECW-ID will provide guidance regarding the development, review and processing of a decision memorandum and/or an MOA for approval by the ASA(CW).

d. Real estate work. In providing reimbursable real estate services, normal USACE policies and procedures will be followed (see ER 405-1-12). Any deviation must be approved by CERE-ZA.

e. Hazardous, toxic and radioactive wastes (HTRW). Acceptance and performance of hazardous, toxic and radioactive waste work will be in accordance with ER 1110-2-500. See Appendix D.


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f. Other reimbursable opportunities. Nothing in this regulation is intended to change existing notification and approval procedures for reimbursable work not specifically addressed in paragraph 4c. This includes work for DOD agencies, research and development work, and assistance to foreign nations.

g. Annual report. By 1 November of each year, MSC Commanders are to submit to CDR, HQUSACE (CECW-ID), Washington, D.C. 20314-1000, a report on SFO activities, RCS: CECW-I-7. This report should be a brief narrative that summarizes the past fiscal year SFO activities and plans for SFO activities in the current fiscal year. The report should also include an update of the MSC's April FORCON submittal on SFO.

h. Project management. Project Management policy and procedures, as detailed in ER 5-7-1(FR), will be applied to management of SFO work. HQUSACE Project Review Board involvement will be determined on a case-by-case basis consistent with the guidelines contained in ER 5-7-1(FR), based on MSC recommendations or upon request by the HQUSACE Project Review Board (PRB). Reporting will be to the Military Programs PRB or the Civil Works PRB, based on which directorate has execution oversight responsibility for the project (see paragraph 9 above). Reporting format will be in accordance with ER 5-7-1(FR). Reporting of projects to the HQUSACE PRB does not relieve the MSC from reporting in the AMPRS or LRS systems for projects managed by the Directorate of Military Programs or the Directorate of Civil Works, respectively.

FOR THE COMMANDER:


MILTON HUNTER
Colonel, Corps of Engineers
Chief of Staff

5 Appendices
Appendix A - ENG Form 4914-R
Appendix B - Guidelines for
Classifying Support for Others
Appendix C - Application of SFO Criteria,
Checklist Instructions
Appendix D - Reimbursable Programs
Centrally Managed by HQUSACE
Appendix E - OMB Circular A-97 Revised