

COOPERATIVE AGREEMENT MODIFICATION

Agreement/Appendix Title and Number: W912PQ-14-2-1002

Project Name/Description and Location: ARNG Environmental Programs Resources Management

Modification Number: P00001

ISSUED BY:

NATIONAL GUARD BUREAU

ISSUED TO:

THE STATE OF NEW YORK

This modification is issued pursuant to the Authorities, 31 U.S.C. Chapter 63; MCA and Appendices Article VII, Sect 703; MCCA Article XII, Sect 1201 of the basic cooperative agreements. Mark purpose and obtain signatures as appropriate IAW NGR 5-1, Chapter 3.

a. FUNDING

b. TERMS AND CONDITIONS

c. TERMINATION

d. OTHER ADMINISTRATIVE

DESCRIPTION OF MODIFICATION:

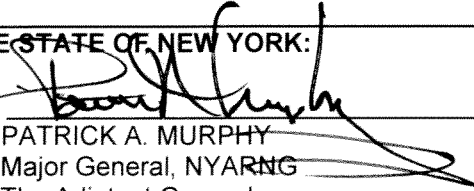
1. JUSTIFICATION: Request that a Modification be issued to open Appendix 1002, ARNG Environmental Programs Resources Management, of the Master Cooperative Agreement for Fiscal Year 2014.
2. This Appendix, W912PQ-14-2-1002, is hereby extended for Fiscal Year 2014. The effective date is 01 October 2013 and the termination date is 30 September 2014.
3. The Appendix number W912PQ-13-2-1002 is changed to read W912PQ-14-2-1002 for FY 2014.
4. The Initial Maximum Funding Limitation (MFL-Federal) for this Appendix W912PQ-14-2-1002 for FY-14 is \$0.00.
5. The Initial Estimated Cost (AFP-Federal) for this Appendix W912PQ-14-2-1002 for FY-14 is \$689,000.00.
6. The Initial Maximum Funding Limitation (MFL-State) for this Appendix W912PQ-14-2-1002 for FY-14 is \$0.00.
7. The Initial Estimated Cost (AFP-State) for this Appendix W912PQ-14-2-1002 for FY-14 is \$28,001.00
8. In-Kind Assistance is established at \$110,000.00.
9. Add the attached updated pages 7-8 to this Appendix for FY-14.
10. See attached memo from MNFE dated 01 October 2013.
11. FY2014 funding for this modification is authorized pursuant to HR2775, as enacted, Section 116. Funding is authorized to the Grantee for reimbursement of expenses incurred for 1) compensation of furloughed employees during the period of a lapse in Federal appropriations and, 2) expenses incurred by the Grantee that would have been paid by the Federal Government during that period had appropriations been available. HR2775, as enacted, Section 116 in its entirety is attached and incorporated by reference. Reimbursement of authorized, allowable expenses retroactive to 1 Oct 13 is authorized.
12. As FY 2014 budgets are approved by NGB, program managers will add funding to the Appendix by separate modification which is subject to the availability of funds.

EXECUTION

Except as provided herein, all terms and conditions of the Cooperative Agreement and/or Appendix remain unchanged in full force and effect.

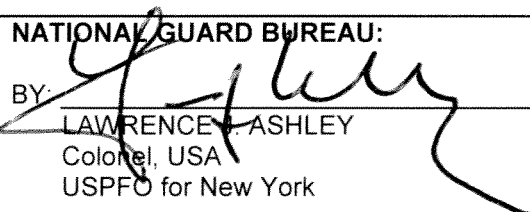
IN WITNESS WHEREOF, the parties by their authorized representatives execute this Cooperative Agreement Modification.

THE STATE OF NEW YORK:

BY: 
PATRICK A. MURPHY
Major General, NYARNG
The Adjutant General

Date: 30 Oct 13

NATIONAL GUARD BUREAU:

BY: 
LAWRENCE S. ASHLEY
Colonel, USA
USPFO for New York

Date: 4 Nov 13

APPROVED AS TO LEGAL FORM:

BY: 
Counsel Robert G. Conway, Jr., MNLA

Date: 30 Oct 2013

APPROVED AS TO LEGAL FORM:

BY: 
Counsel Paul Sausville, COL, JA, NYARNG

Date: _____

MEMORANDUM FOR MNPF, WO2 Renee Davin

SUBJECT: Request to Modify Master Cooperative Funding Agreement (CFA),
W912PQ-14-2-1002, Appendix 2 (Environmental)

1. Request that a modification be completed, for Appendix 2, to reflect initial AFP in the amount indicated below for Federal Fiscal Year 2014:

Section 207. Funding Limitation is changed as follows:

a. Funding - VENQ

	(Allotment) Maximum Funding Limitation	(AFP) Estimated Cost
Federal Share (100%)	\$	\$ 603,202.00
Federal Share (75%)	\$	\$ 85,798.00
Federal Share (50%)	\$	\$
Federal Total	\$	\$ 689,000.00
State Share (50%)	\$	\$
State Share (25%)	\$	\$ 28,001.00
Program Income	\$	\$
State Total	\$	\$ 28,001.00
Grand Total	\$	\$ 717,001.00

b. In-Kind Assistance.

Within the Federal Share indicated above, \$110,000 is reserved and designated specifically for IKA through Federal procurement procedures. The use of IKA shall be at the request of The Adjutant General as approved by the USP&FO. ARNG-AEN approval is not necessary.

MNFE (37)

SUBJECT: Request to Modify Master Cooperative Funding Agreement (CFA),
W912PQ-14-2-1002, Appendix 2 (Environmental)

2. The point of contact for this matter is Lisa Bogardus, who may be reached at extension 4980.

A handwritten signature in black ink, appearing to read "Paul Conte". The signature is fluid and cursive, with a large initial "P" and "C".

PAUL R. CONTE
LTC, FA, NYARNG
CFMO-NY

CF:
Tom Halabuda
Peter Jensen



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
NATIONAL GUARD BUREAU
UNITED STATES PROPERTY AND FISCAL OFFICER FOR NEW YORK
330 OLD NISKAYUNA ROAD
LATHAM, NEW YORK 12110-3514

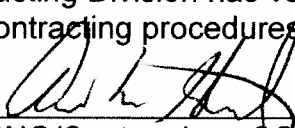
MNPF

9 October 2013

MEMORANDUM FOR MNPF-CO

SUBJECT: Approval of the attached request for In-Kind Assistance Letter Dated: 01 October 2013, from MNFE-CFMO FY 14, Appendix 1002, ARNG Environmental Programs Resources Management

1. In accordance with NGR 5-1 Chapter 9, In-Kind Assistance (IKA) is the federal procurement of supplies or services for a State's/Territory's State Military Department through a Cooperative Agreement. In-kind assistance can be federally procured supplies, services, or construction. Services can include real property maintenance and repair.
2. Use of federal procurement system to contract supplies, services, or construction does not relieve the state of its responsibility to meet the match or share requirements specified in the appropriate Agreement. In-Kind Assistance comes from the federal share of an agreement. When an agreement has a State match/share the Grants Officer Representative is responsible for ensuring the State meets its match/share requirements. The State Military Department shall credit the amount of its share of the costs of in-kind assistance against the costs claimed for reimbursement under the cooperative agreement. In-kind assistance is program year sensitive and as such the credit due the federal government may be in the form of a check if in-kind assistance coincides with the end of a fiscal year.
3. ARNG Contracting Division has verified they **can/cannot** support the attached request to utilize Federal contracting procedures.



ARNG/Contracting: SCS or Deputy

10/15/13

Date

4. Questions may be directed to MNPF, ATTN: CW2 Renee M. Davin at Commercial, 518-786-4709, DSN: 489-4709, or renee.davin@us.army.mil.


RENEE M. DAVIN
CW2, NYARNG
Management & Program Analyst
Cooperative Agreements

MEMORANDUM FOR USP&FO, COL Lawrence Ashley

SUBJECT: Appendix 2, In-Kind Assistance in Support of the FY 2014 NYARNG Environmental Program


1. Request approval to use In-Kind Assistance (IKA) in the amount of \$110,000 for the following environmental requirements:

The Removal and Disposal of Hazardous and Non-Hazardous Wastes at all Field Maintenance Shops (FMS), Combined Support Maintenance Shops (CSMS), and Army Support Facilities (AASF). It is estimated that \$110,000.00 will be used with the following contracts: Ft. Drum (MIPR) - \$7,000.00; Precision Industrial Maintenance (3953) - \$70,000.00; OP-TECH Environmental Services (3953) - \$22,000.00; New York Technology and Environmental (3953) - \$10,000.00 and Safety Kleen (3953) - \$1,000.00.

2. The federal contracting process allows MNFE-EC to issue a MIPR to Fort Drum for the disposal of waste. Utilizing the Blanket Purchase Agreements the remaining NYARNG maintenance facilities (through audited contractors) can also dispose of their environmental wastes. Unfortunately the state cannot execute this particular service contract in a timely fashion. In addition, the waste generated is from federal equipment used to support a federal mission.

3. Request authorization to move \$110,000 from the CFA to the IKA.

4. Questions on this request can be addressed to Ms. Lisa Bogardus at (518) 786-4980.


PAUL R. CONTE
LTC, FA, NYARNG
CFMO-NY

Copy Furnished:
WO2 Renee Davin
Peter Jensen
Tom Halabuda

MNFE (37)

SUBJECT: Appendix 2, In-Kind Assistance in Support of the FY 2014 NYARNG Environmental Program

MNAG-TAG

30 Oct 13 [Signature] Concur Non-Concur
Date Signature The Adjutant General

USP&FO

4 Nov 13 [Signature] Concur Non-Concur
Date Signature USP&FO-NY

Emergency Deficit Control Act of 1985, as amended, and \$469,639,000 is additional new budget authority specified for purposes of section 251(b)(2)(B) of such Act.

(c) Section 5 of Public Law 113-6 shall apply to amounts designated in subsection (a) for Overseas Contingency Operations/Global War on Terrorism.

SEC. 115. (a) Employees furloughed as a result of any lapse in appropriations which begins on or about October 1, 2013, shall be compensated at their standard rate of compensation, for the period of such lapse in appropriations, as soon as practicable after such lapse in appropriations ends.

(b) For purposes of this section, "employee" means:

- (1) a federal employee;
- (2) an employee of the District of Columbia Courts;
- (3) an employee of the Public Defender Service for the District of Columbia; or
- (4) a District of Columbia Government employee.

(c) All obligations incurred in anticipation of the appropriations made and authority granted by this joint resolution for the purposes of maintaining the essential level of activity to protect life and property and bringing about orderly termination of Government functions, and for purposes as otherwise authorized by law, are hereby ratified and approved if otherwise in accord with the provisions of this joint resolution.

SEC. 116. (a) If a State (or another Federal grantee) used State funds (or the grantee's non-Federal funds) to continue carrying out a Federal program or furloughed State employees (or the grantee's employees) whose compensation is advanced or reimbursed in whole or in part by the Federal Government—

(1) such furloughed employees shall be compensated at their standard rate of compensation for such period;

(2) the State (or such other grantee) shall be reimbursed for expenses that would have been paid by the Federal Government during such period had appropriations been available, including the cost of compensating such furloughed employees, together with interest thereon calculated under section 6503(d) of title 31, United States Code; and

(3) the State (or such other grantee) may use funds available to the State (or the grantee) under such Federal program to reimburse such State (or the grantee), together with interest thereon calculated under section 6503(d) of title 31, United States Code.

(b) For purposes of this section, the term "State" and the term "grantee" shall have the meaning as such term is defined under the applicable Federal program under subsection (a). In addition, "to continue carrying out a Federal program" means the continued performance by a State or other Federal grantee, during the period of a lapse in appropriations, of a Federal program that the State or such other grantee had been carrying out prior to the period of the lapse in appropriations.

(c) The authority under this section applies with respect to any period in fiscal year 2014 (not limited to periods beginning or ending after the date of the enactment of this joint resolution) during which there occurs a lapse in appropriations with respect to any department or agency of the Federal Government which, but for such lapse in appropriations, would have paid, or made reimbursement relating to, any of the expenses referred to in this

section with respect to the program involved. Payments and reimbursements under this authority shall be made only to the extent and in amounts provided in advance in appropriations Acts.

SEC. 117. Expenditures made pursuant to the Pay Our Military Act (Public Law 113-39) shall be charged to the applicable appropriation, fund, or authorization provided in this joint resolution.

SEC. 118. For the purposes of this joint resolution, the time covered by this joint resolution shall be considered to have begun on October 1, 2013.

SEC. 119. Section 3003 of division G of Public Law 113-6 shall be applied to funds appropriated by this joint resolution by substituting "fiscal year 2014" for "fiscal year 2013" each place it appears.

SEC. 120. Section 408 of the Food for Peace Act (7 U.S.C. 1736b) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "December 31, 2012".

SEC. 121. Amounts made available under section 101 for "Department of Commerce—National Oceanic and Atmospheric Administration—Procurement, Acquisition and Construction" may be apportioned up to the rate for operations necessary to maintain the planned launch schedules for the Joint Polar Satellite System and the Geostationary Operational Environmental Satellite system.

SEC. 122. The authority provided by sections 1205 and 1206 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81) shall continue in effect, notwithstanding subsection (h) of section 1206, through the earlier of the date specified in section 106(3) of this joint resolution or the date of the enactment of an Act authorizing appropriations for fiscal year 2014 for military activities of the Department of Defense.

SEC. 123. Section 3(a)(6) of Public Law 100-676 is amended by striking both occurrences of "\$775,000,000" and inserting in lieu thereof, "\$2,918,000,000".

SEC. 124. Section 14704 of title 40, United States Code, shall be applied to amounts made available by this joint resolution by substituting the date specified in section 106(3) of this joint resolution for "October 1, 2012".

SEC. 125. Notwithstanding section 101, amounts are provided for "The Judiciary—Courts of Appeals, District Courts, and Other Judicial Services—Salaries and Expenses" at a rate of operations of \$4,820,181,000: *Provided*, That notwithstanding section 302 of Division C, of Public Law 112-74 as continued by Public Law 113-6, not to exceed \$25,000,000 shall be available for transfer between accounts to maintain minimum operating levels.

SEC. 126. Notwithstanding section 101, amounts are provided for "The Judiciary—Courts of Appeals, District Courts, and Other Judicial Services—Defender Services" at a rate for operations of \$1,012,000,000.

SEC. 127. Notwithstanding any other provision of this joint resolution, the District of Columbia may expend local funds under the heading "District of Columbia Funds" for such programs and activities under title IV of H.R. 2786 (113th Congress), as reported by the Committee on Appropriations of the House of Representatives, at the rate set forth under "District of Columbia Funds—Summary of Expenses" as included in the Fiscal Year 2014 Budget Request Act of 2013 (D.C. Act 20-127), as modified as of the date of the enactment of this joint resolution.

Projects for NYARNG
Projects

Law / Reg	Program Area	AMSCO	Current Required	ESOB	Funded
MULT	Salaries/Travel	131G56.17	\$428,100	\$428,100	\$428,000
MULT	Salaries/Travel	131G53.17	\$99,100	\$99,100	\$99,000
CAA	Permits and Fees	131G56.13	\$1,600	\$1,600	\$2,000
CWA	Permits and Fees	131G56.13	\$1,500	\$1,500	\$2,000
RCRC	Hazardous Waste Disposal	131G56.15	\$110,000	\$110,000	\$110,000
CWA	Sampling, Analysis and Monitoring	131G56.14	\$3,500	\$3,500	\$4,000
SDWA	Sampling, Analysis and Monitoring	131G56.14	\$3,500	\$3,500	\$4,000
MULT	Salaries/Travel	131G56.17	\$5,000	\$5,000	\$5,000
RCRC	Training	131G56.12	\$36,100	\$36,100	\$23,000
MULT	Administrative Costs	131G56.17	\$5,000	\$5,000	\$3,000
CWA	Studies, Assessments, Audits and Plans	131G56.21	\$4,000	\$4,000	\$3,000
RCRC	Plans and Studies	131G56.41	\$6,000	\$6,000	\$4,000
RCRC	Plans and Studies	131G56.41	\$30,000	\$2,600	\$2,000

SUM :: \$733,400 \$706,000 \$689,000
*** 2014 AFG *** \$709,000

air ESOB.

APPENDIX 2

ARNG ENVIRONMENTAL PROGRAMS RESOURCES MANAGEMENT

Section 201. General.

a. This Appendix establishes terms, conditions, policy and administrative procedures related to the National Guard Bureau's (NGB's) federal contribution for the Environmental Programs Resources Management of the Army National Guard within the State.

b. The provisions set forth in National Guard Regulation (NGR) 5-1 are incorporated into this Appendix by reference.

c. Statement of Facts.

(1) Support of the Environmental Programs Resources Management appendix is authorized for the environmental operation, maintenance, and repair of those facilities described and coded for federal support in the current Facilities Inventory and Support Plan (FISP) or to mission-related environmental activities when not facility-related as approved in writing by the Environmental Programs Division (NGB-ARE).

(2) The Environmental Programs Division (NGB-ARE) provides federal support for environmental programs, projects, and services initiated by a State Military Department (SMD) that are necessary to comply with applicable Department of the Army (DA), National Guard Bureau (NGB), Army National Guard (ARNG), Department of Defense (DoD), federal, state, and local environmental regulations (hereinafter referred to as "environmental laws").

(3) This Appendix outlines limitations and identifies the maximum amount of federal funding available for reimbursement of environmental charges incurred by a Grantee for compliance with environmental laws and requirements validated by NGB-ARE.

Section 202. Additional Definitions.

a. Environmental Program Management: Activities accomplished to sustain the SMD's environmental program.

b. Environmental Professional: Federally reimbursed full-time, part-time, and seasonal state environmental employees and federal environmental protection specialists who directly support activities covered by the Appendix.

c. Non-environmental Professional: Federal or state full-time, part-time, and seasonal employees who are not employed by the environmental program; however, they do have environmental-related job responsibilities covered by the Appendix.

d. Environmental Restoration Project: Facility construction or maintenance and repair activities initiated to comply with environmental restoration laws.

e. Environmental Services: Activities that support the environmental compliance, pollution prevention, conservation, and restoration programs.

f. Status Tool for the Environmental Program (STEP): An application located behind Web-based Compliance Assessment and Sustainment System (WEBCASS) in Guard Knowledge Online (GKO) designed to facilitate state project identification, NGB-ARE review/validation, and project execution. NGB-ARE uses the data maintained in STEP to distribute funds to support critical must-fund projects among all 54 states and territories; to adhere to DA policy on what is eligible for environmental funding; and to analyze execution to ensure that POM requirements are accurate.

Section 203. Office of Primary Responsibility.

a. The Office of Primary Responsibility for this Appendix is the Environmental Programs Division (NGB-ARE National Guard Bureau, Army National Guard Readiness Center, 111 South George Mason Drive, Arlington, VA 22204-1382.

b. The Chief NGB-ARE, for the purposes of this Appendix, is a designee of the Chief, National Guard Bureau, and is the individual authorized to make final approval of all environmental program management budgets and modifications, distributions and withdrawals of funds, receive required accounting reconciliation reports, and approve environmental actions specifically reserved under this Appendix for NGB-ARE.

Section 204. Scope of Agreement.

a. Scope of Services: Environmental Programs Resource Management includes three types of environmental actions: compliance/corrective projects, environmental services and program management.

(1) Environmental compliance/corrective projects are projects which are initiated to comply with environmental laws, prevent pollution, conserve the environment, and/or restore the environment. An environmental compliance/corrective project normally shall result in a complete and environmentally sound facility or structure, but may be phased to meet environmental requirements. Structuring projects with the purpose of circumventing funding approval limits is prohibited.

(2) Environmental services are activities that support enforcement and compliance, pollution prevention, conservation, and restoration; such as studies, plans, surveys, tests, monitoring, hazardous waste disposal and management, and environmental public affairs requirements. Specifically included is the Integrated Natural Resource Management Program which includes inventorying, protecting, and restoring state cultural and geophysical resources on lands, facilities and property owned or managed by the National Guard.

(3) Program management includes actions, activities, and tasks which are accomplished to maintain an environmental program. Program management includes, but is not limited to actions by the Grantee to accomplish environmental activities such as; environmental corrective actions, hazardous waste management, training, environmental project reviews, environmental planning activities, and natural resources actions.

b. Performance Specifications: Environmental program operations shall include, but not be limited to actions by the Grantee, through employment by the State, by contract or hire, of sufficient personnel, acquisition by contract of supplies or services, or other necessary actions, to accomplish the following tasks:

(1) The CA PM shall use the ARNG's Status Tool for the Environmental Program (STEP) to submit budget requirements to NGB-ARE for approval. Reimbursement will not be sought for obligations not previously approved in the STEP tool.

(2) The Grantee shall provide applicable resources to ensure compliance with the Clean Air Act; Clean Water Act; National Environmental Policy Act; Noise Control Act; Resource, Conservation and Recovery Act; Safe Drinking Water Act; Toxic Substance Control Act; Sikes Act; Endangered Species Act; Federal Insect, Fungicide and Rodenticide Act; American Indian Religious Freedom Act; Archeological Resource Repatriation Act; Native American Graves Repatriation Act; National Historic Preservation Act; Emergency Planning and Community Right-to-Know Act and applicable Executive Orders, Army Regulations, Department of Defense Instructions and guidance from other State and Federal regulatory agencies.

(3) The Grantee shall provide applicable services for data entry and reporting in the Army Environmental Database-Compliance Cleanup.

(4) The Grantee shall provide applicable services for data entry and reporting in the Army Environmental Database-Environmental Quality.

(5) The Grantee shall provide applicable services for data entry and reporting in the Installation Status Report-Natural Infrastructure.

(6) The Grantee shall provide applicable services for data entry and reporting in the Installation Status Report-Service Based Costing.

(7) The Grantee shall provide applicable services for data entry and reporting in the Installation Status Report-Natural Infrastructure.

(8) The Grantee shall develop and implement Integrated Natural Resource Management Plans; Integrated Cultural Resource Management Plans; Integrated Pest Management Plans, among others.

(9) The Grantee shall ensure that adequate training is provided to the Federally-Reimbursed employees within the environmental program, in order that they are kept apprised of current environmental policies and laws.

Section 205. Authorized Activities and Charges.

a. Environmental Program Management. Authorized activities and charges accomplished under this appendix include:

(1) Employees: Cost of full-time, part-time, interns, and seasonal state environmental employee salaries and related benefits for positions approved and authorized by the EMM and in the approved ESOB. Payments for salaries, to include approved overtime and allowable benefits, will be in accordance with state personnel policy for like state government positions within the same geographic area. If a state has a pay raise, pay freeze, pay cap, a hiring freeze or employee furloughs for like positions throughout the state then employees under this agreement will have corresponding limitations. Environmental Manning Model: The EMM is a model used to allocate personnel to the states based on the number and types of facilities and training sites and the level of effort required to manage their respective environmental resources. States may hire State employees, contractors and interns up to 100% of the maximum number allowed by their EMM.

Full-time or part-time contractor: costs associated with travel must be included in the contract, and training is limited to ARNG-sponsored training unless specifically approved by NGB-ARE.

(1) Costs for mission travel and training and associated travel for those personnel in positions approved and authorized by the Environmental Manning Model (EMM) and in the approved ESOB.

(a) Includes direct costs associated with local travel and temporary duty travel, and associated per diem for authorized state employees who directly support activities covered by this appendix.

(b) Reimbursement for mission travel expenses is allowable only to the extent such costs do not exceed charges normally allowed by the state in its regular operations as the result of the state's *written* travel policy. In the absence of an acceptable, written state policy regarding travel costs, the rates and amounts established under the JFTR shall apply to travel under this appendix.

(c) Mission travel includes state fleet, or commercial vehicle rental or leases used exclusively in execution of the ARNG environmental mission under this Appendix. Mission travel may include the use of General Services Administration (GSA) vehicles IAW Section 716 of the Master Cooperative Agreement.

(3) Costs for reference library and technical material.

b. Environmental Services. Authorized activities and charges that support environmental compliance, conservation, pollution prevention, and restoration;

(1) Studies; Development and implementation of plans; Surveys; Assessments; Tests; Lab analysis; Monitoring; Inventories; Hazardous waste management; and Environmental public affairs requirements.

(2) Management of hazardous waste; disposal of hazardous waste resulting from clean-up and remediation efforts, when the disposal is not part of a larger sustainment or modernization project; Disposal costs for hazardous waste from tenants and MTOE units; Disposal costs for orphaned or unknown hazardous wastes; and clean-up of environmental spills of hazardous material, when the responsible party is unknown.

c. Environmental Restoration Projects. Facility construction or maintenance and repair activities initiated to comply with environmental laws (e.g., pump and treat systems, land fill caps, air sparging system).

d. Other Environmental Services;

(1) Environmental services furnished incidental to the environmental operations, maintenance, and repair of those facilities in the current FISP. Environmental services at facilities not included in the FISP require written approval of the Chief, NGB-ARE.

(2) Geographic Information Systems (GIS). Hardware, network-certified software licensing (e.g., ESRI GIS and mapping software), and data acquisition used in direct support of environmental programs (ESRI maintenance is centrally funded by ARE).

(3) Architectural and engineering (A&E) services for environmental compliance, pollution prevention, conservation, and restoration projects.

(a) Rates shall be consistent with NGR 415-5, *Army National Guard Construction Program Development and Execution*, and costs shall be charged to the same environmental AMSCO as the project.

(b) Evaluation studies or similar efforts to determine the scope of a project shall be charged to the same environmental AMSCO.

(4) Development of web-based or computer-based environmental databases or training courses/materials with explicit, written approval of the Chief, NGB-ARE.

(5) Preparation of plans for maintenance, repair, and rehabilitation of historic structures or properties.

e. Machines, Equipment, Tools.

(1) Purchase of machines, equipment, and tools required to support responsibilities under this appendix.

(2) Purchase of specialized, non-standard equipment required for implementation of integrated natural and cultural resource management plans and the equipments is required by authorized state environmental staff to perform their responsibilities under this appendix. The equipment could include, but is not limited to, items such as all-terrain vehicles, snowmobiles, and boats. In addition, the equipment must meet the following conditions:

(a) Item(s) shall not be for principal use of someone or some function covered under 10 USC Chapter 39, 32 USC Chapter 3, 32 USC 502, or 32 USC 709 (e.g., active duty soldiers, technicians, and M-Day soldiers);

(b) Item is not more economical to rent or lease.

(3) Only machines, tools, or equipment used in support of activities covered under Appendix 2 will be maintained through this agreement.

(4) Equipment necessary for personnel to properly operate machines, tools, or equipment used in support of activities covered under Appendix 2.

(5) Rental of environmental testing, monitoring, spill containment and clean-up equipment, and tools.

(a) Rentals must be for items essential to the state's performance of its responsibilities under this appendix, and must be used primarily in support of activities covered under this appendix, to include response to or prevention of an environmental emergency.

(b) Rentals may include GSA vehicles and equipment provided via in-kind assistance.

(c) Except for vehicle leases, rental or lease of items for a period in excess of 240 days requires USPFO approval of an economic analysis showing that this is the most cost-effective alternative to ensure the SMD meets its responsibilities under this appendix.

f. Environmental awareness and outreach materials, with approval of NGB-ARE through the STEP tool.

g. Environmental Management System (eMS) implementation and the environmental components of sustainability, with approval of NGB-ARE.

Section 206. Unauthorized Activities and Charges. Costs for:

a. Environmental employees not approved by NGB-ARE.

b. Travel-related expenses for non-environmental professionals.

c. Contractor training for professional development or certification.

d. Penalties and fines for violations of environmental laws.

e. Disposal of solid waste.

f. General/routine cleaning and pumping of non-hazardous sludge of:

(1) Oil-water separators, and

(2) Used oil tanks.

g. Removal of underground storage tanks (USTs) not required by environmental laws.

h. Integrity testing of storage tanks.

- i. Storage tank operations and maintenance, to include monitoring equipment.
- j. Flammable material storage lockers.
- k. Portable containers for hazardous materials.
- l. Projects not related to compliance with environmental laws, pollution prevention, conservation, or clean-up of the environment (e.g., Occupational Safety and Health, Hazards in the Work Place).
- m. Purchase of passenger vehicles.
- n. Routine maintenance and repair of passenger vehicles.
- o. Routine facility operating costs.
- p. Routine facility maintenance and repairs.
- q. Operation and maintenance of a recycling program.
- r. Use of appropriation 2065 for following environmental requirements:
 - (1) Forestry,
 - (2) Agriculture,
 - (3) Army Environmental Restoration (ER,A), and
 - (4) Base Realignment and Closure (BRAC).
- s. Replacement of Class 1 ozone-depleting substances (e.g., stationary halon fire-suppression systems, facility refrigeration, chiller equipment).
- t. Asbestos:
 - (1) Removal/abatement as part of routine repair or construction;
 - (2) Waste removal/disposal as part of building renovation/demolition;
 - (3) Surveys, assessments, and management plans;
 - (4) Control through in-place management or abatement.
- u. Lead-based paint:
 - (1) Surveys,
 - (2) Risk assessments,
 - (3) Inspections,
 - (4) Removal, or
 - (5) Abatement actions.
- v. Environmental impact statements (EISs), unless the Environmental Office is the proponent of action.
- w. Environmental assessments (EAs), unless the Environmental Office is the proponent of action.
- x. Records of environmental consideration (RECs), unless the Environmental Office is the proponent of action.
- y. Environmental Baseline Studies (EBS).
- z. Conventional pest control approaches (judged by current industry standards), to include:

- (1) Surveillance for pests and pest-related damage;
- (2) Trapping;
- (3) Conventional applications of chemical pesticides (except when used as part of an environmental project as a general or routine measure);
- (4) Minor habitat modifications that reduce pest access to breeding, feeding, and resting sites; or
- (5) Purchase or repair of equipment and supplies to perform these pest-control activities.
 - a. Administration of hunting, fishing, and trapping activities exclusively related to non-appropriated funds (NAF).
 - b. Routine grounds maintenance for purpose of aesthetics (e.g., grass mowing, tree pruning, landscaping).
 - c. Building demolition/debris removal (BD/DR)
 - d. Personal use items.
 - e. Furniture
 - f. Network-certified GIS software maintenance (this cost is centrally managed and funded by NGB-ARE).

Section 207. Budget Requirements.

- a. Limitations:
 - (1) The Cooperative Agreement Program Manager submits their annual Environmental State Operating Budget (ESOB) for the next fiscal year in late April each year, based on the preliminary annual funding guidance (PAFG) they receive from NGB-ARE.
 - (2) The Appendix funding limitation should consist of those environmental projects and services validated for funding in each state's ESOB.
- b. State Operating Budget:
 - (1) Only projects validated by NGB-ARE are to be included in the ESOB.
 - (2) If a project's cost increases after validation, the state may still execute the project as long as the increase is not excessive. Excessive cost increases are defined below:
 - (a) Projects with an original cost between \$20,000 and \$100,000 that experience a cost increase of 50%, and
 - (b) Projects with an original cost estimate greater than \$100,000 that experience a cost increase of 25%.
 - (3) Projects with excessive cost increases will require NGB-ARE revalidation.
 - (4) Recurring cost increases may result in evaluation by NGB-ARE of a state's project cost-estimating process to determine corrective actions.
- c. Status Tool for the Environmental Program (STEP):
 - (1) Environmental requirements are identified by the state environmental program managers in the STEP. The STEP reflects all environmental requirements and funding information to properly classify the project and justify project funding.
 - (2) Projects must be approved in STEP in order to be authorized for federal reimbursement.
- d. AMSCOs: The Grantee shall use the AMSCOs provided by the Cooperative Agreement Program Manager, in accounting for charges to this Appendix.
- e. Cost Sharing:
 - (1) NGB-ARE is authorized to reimburse Grantees up to 100 percent federal funds for expenses incurred rendering environmental program management, environmental projects, environmental services, and environmental-driven maintenance and repair.
 - (a) The federal share of reimbursement for environmental charges at facilities listed in the current FISP will be in accordance with NGR 420-10, *Construction and Facilities Management Office Operations*, and the support agreement code descriptions from NG Pam 420-10.
 - (b) The federal share of reimbursement for environmental charges at facilities not listed in the current FISP will be determined by the USPFO, in coordination with the Chief, NGB-ARE.

(c) Generally, environmental resource support shall be provided funds for authorized facilities as coded in the FISP. However, some environmental services and projects are not facility-related but mission-related, and as such, will be supported with 100 percent federal funding.

(2) The percentage share (e.g., 100%, 75%, 50%) of federal reimbursement shall be broken out in Section 209, Funding Limitations.

f. Budget Changes.

(1) The CA PM must submit a written request to NGB-ARE to decrease or increase funds in the budget. The request shall include an updated budget reconciliation report as an enclosure. The request and approval shall not be binding, nor can any expenditure of funds be approved, unless a CA modification to this appendix has been executed.

(2) Budget changes will be reflected in the periodic reports required by NGB-ARO-FP.

Section 208. Appendix Administration.

a. Real Property, Construction, Repair, and Maintenance:

(1) For environmental requirements involving real property, construction, repair, and maintenance, the CFMO is responsible for work classification, technical adequacy, and compliance with criteria associated with all ARNG real property activities within the state, regardless of the federal program-funding source.

b. Contract Provisions:

(1) Grantees will include a requirement for contractors to conform with ARNG eMS policy, regarding: complying with applicable environmental regulations, preventing pollution, and implementing actions that minimize environmental impacts from those aspects found to have potentially significant impacts. In meeting this requirement, Grantees should brief appropriate contractors on their eMS requirements prior to initiation of contracted work.

(2) Grantees will include all provisions of Article VIII, of the Master Cooperative Agreement in contracts.

(3) Changes to the terms and or conditions of this Appendix will be processed IAW NGR 5-1, Chapter 3.

Section 209. Funding Limitation.

a. Approved Budget/Annual Funding Program (AFP): The total dollar amount that NGB anticipates, subject to the availability of funds, being available for reimbursement to the State for its costs in fulfilling its responsibilities under this Appendix. This amount may be increased or decreased by NGB during the fiscal year.

b. Total Dollars Obligated: The total amount of funds obligated for NGB's share under this Appendix. Only funds obligated through an executed CA modification are available for reimbursement to the State. Funds shall be obligated as received by the CA PM.

c. Accomplished as In-Kind Assistance: The total dollars expended through Federal acquisition. This dollar amount may reflect anticipated In-Kind Assistance and be updated as IKA is approved, but as a minimum shall reflect the total dollars accomplished through In-Kind Assistance in support of this Appendix for each fiscal year as it occurs.

d. The following funding limitations are provided for each fiscal year as it occurs:

1. Fiscal Year 2010:

	Approved Budget/(AFP)	Total Dollars Obligated
Federal Share (100%)	\$ 1,014,000.00	\$ 1,014,000.00
Federal Share (75%)	\$ 84,500.00	\$ 84,500.00
Federal Share (50%)	\$ 0.00	\$ 0.00
Federal Total	\$ 1,098,500.00	\$ 1,098,500.00
Accomplished as In-Kind Assistance	\$312,441.00	

August 2009

Grantee Share (50%)	\$ 0.00	\$ 0.00
Grantee Share (25%)	\$ 28,167.00	\$ 28,167.00
Grantee Total	\$ 28,167.00	\$ 28,167.00

2. Fiscal Year 2011:

	Approved Budget/(AFP)	Total Dollars Obligated
Federal Share (100%)	\$ 1,065,124.00	\$ 1,065,124.00
Federal Share (75%)	\$ 85,176.00	\$ 85,176.00
Federal Share (50%)	\$ 0.00	\$ 0.00
Federal Total	\$ 1,150,300.00	\$ 1,150,300.00
Accomplished as In-Kind Assistance	\$495,500.00	
Grantee Share (50%)	\$ 0.00	\$ 0.00
Grantee Share (25%)	\$ 28,392.00	\$ 28,392.00
Grantee Total	\$ 28,392.00	\$ 28,392.00

3. Fiscal Year 2012:

	Approved Budget/(AFP)	Total Dollars Obligated
Federal Share (100%)	\$ 913,409.00	\$ 913,409.00
Federal Share (75%)	\$ 77,411.00	\$ 77,411.00
Federal Share (50%)	\$ 0.00	\$ 0.00
Federal Total	\$ 990,820.00	\$ 990,820.00
Accomplished as In-Kind Assistance	\$304,400.00	
Grantee Share (50%)	\$ 0.00	\$ 0.00
Grantee Share (25%)	\$ 25,804.00	\$ 25,804.00
Grantee Total	\$ 1,016,624.00	\$ 1,016,624.00

4. Fiscal Year 2013:

	Approved Budget/(AFP)	Total Dollars Obligated
Federal Share (100%)	\$ 1,134,832.00	\$ 1,134,832.00
Federal Share (75%)	\$ 90,168.00	\$ 90,168.00
Federal Share (50%)	\$ 0.00	\$ 0.00
Federal Total	\$ 1,225,000.00	\$ 1,225,000.00
Accomplished as In-Kind Assistance	\$110,000.00	
Grantee Share (50%)	\$ 0.00	\$ 0.00
Grantee Share (25%)	\$ 30,004.00	\$ 30,004.00
Grantee Total	\$ 30,004.00	\$ 30,004.00

5. Fiscal Year 2014:

	Approved Budget/(AFP)	Total Dollars Obligated
Federal Share (100%)	\$ 603,202.00	\$ _____
Federal Share (75%)	\$ 85,798.00	\$ _____
Federal Share (50%)	\$ 0.00	\$ _____
Federal Total	\$ 689,000.00	\$ _____
Accomplished as In-Kind Assistance	\$110,000.00	
Grantee Share (50%)	\$ 0.00	\$ _____
Grantee Share (25%)	\$ 28,001.00	\$ _____
Grantee Total	\$ 28,001.00	\$ _____

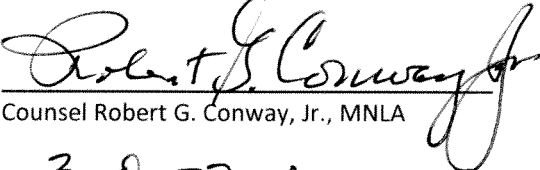
Section 210. Agreement Particulars.

The information below shall be recorded by the Grants Officer's Representative (GOR) for compliance with the reporting requirements of the DoD Assistance Award Action Report System (DAADS) and the Federal Funding Accountability and Transparency Act of 2006.

- | | |
|--|---|
| a. Grantee/Recipient Category: | Government |
| b. Grantee/Recipient Type: | State Government |
| c. Grantee/Recipient DUNS: | 044776024 |
| d. Primary Place of Performance (if different from 'Issued To' on CA Modification Form):
(To include Zip + 4) | New York, 12110-3514 |
| e. Grantee/Recipient County
(Primary Place of Performance): | 36 |
| f. Grantee/Recipient Congressional District
(Primary Place of Performance): | Albany |
| g. Major Agency: | DOD |
| h. Agency Code: | 2100 |
| i. Funding Agency: | Army |
| j. Program Source Agency: | 21 |
| k. Transaction Type: | Cooperative Agreement |
| l. CFDA: | 12.401 |
| m. CFDA Program Title: | Operation and Maintenance,
Army National Guard |
| n. Program Source Account-Funding: | 2065 |
| o. Treasury Appropriation Code: | 2065 |
| p. Award/Obligation/Action Date: | 1 Oct 2013 |
| q. Starting Date: | 1 Oct 2013 |
| r. Ending Date: | 30 Sep 2014 |
| s. Record Type: | Individual Action |
| t. Fiscal Year/Quarter: | 2014/1 st Qtr |

EXECUTION

IN WITNESS WHEREOF: The parties, by their signatures, execute this Appendix and agree to its terms and conditions.

<p>STATE OF NEW YORK:</p> <p>BY:  PATRICK A. MURPHY</p> <p>Major General, NYARNG The Adjutant General</p> <p><u>30 Oct 13</u> (Date)</p>	<p>NATIONAL GUARD BUREAU:</p> <p>BY:  LAWRENCE J. ASHLEY</p> <p>Colonel, USA USP&FO for New York</p> <p><u>4 NOV 13</u> (Date)</p>
<p>Approved as to Legal Form:</p> <p> Counsel Robert G. Conway, Jr., MNLA</p> <p><u>30 Oct 2013</u> (Date)</p>	<p>Approved as to Legal Form:</p> <p> Counsel Paul Sausville, COL, JA, NYARNG</p> <p><u>29 OCT 2013</u> (Date)</p>