

**MEMORANDUM OF AGREEMENT**

**BETWEEN THE**

**U.S DEPARTMENT OF DEFENSE  
THE DEPARTMENT OF THE NAVY**

**AND THE**

**U.S. DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

**NOS Agreement Code: MOA-2004-015/1106**

## I. PARTIES

- A. This Memorandum of Agreement (MOA) is entered into by and between the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, and the Department of the Navy (Navy), as represented by the Oceanographer of the Navy, U.S. Department of Defense, hereinafter referred to as the Parties.
- B. This MOA replaces the existing umbrella MOA between Navy and NOAA dated 31 July 1993, as amended 16 June 1994, and as extended to 31 December 2003, through an oral agreement memorialized in an exchange of letters between the Navy and NOAA approving officials.

## II. AUTHORITIES

- A. The Navy authority to enter into this MOA with NOAA is 10 U.S.C. § 5013, which authorizes the Secretary of the Navy to conduct all affairs of the Department of the Navy, including the delegation of this authority, for functions including organizing, equipping, training, mobilizing and maintaining the Department.
- B. The NOAA authorities to enter into this MOA with the Navy include but are not limited to the following statutes:
  - 1. 33 U.S.C. §§ 883a et seq., the National Ocean Service (NOS) Organic Authority, otherwise know as the Coast and Geodetic Survey Act, which authorizes the Secretary of Commerce to conduct hydrographic and topographic surveys, tide and current observations, geodetic control surveys, filed surveys for aeronautical charts, geomagnetic, seismological, gravity, and related geophysical measurements to provide charts and other information for safe and marine and air navigation.
  - 2. 15 U.S.C. § 313, (insert name of the Act), which authorizes Secretary of Commerce to have charge of the forecasting of weather, the issue of storm warnings, the display of weather and flood signals for the benefit of agriculture, commerce, and navigation, the gauging and reporting of rivers, the maintenance and operation of seacoast telegraph lines and the collection and transmission of marine intelligence for the benefit of commerce and navigation, the reporting of temperature and rain-fall conditions for the cotton interests, the display of frost and cold-wave signals, the distribution of meteorological information in the interests of agriculture and commerce, and the taking of such meteorological observations as may be necessary to establish and record the climatic conditions of the United States, or as are essential for the proper execution

of the foregoing duties NOAA to collect and disseminate weather and climate observations for the protection of life and property.

- C. Subsequent Annexes to this MOA will cite the appropriate legal and programmatic authorities pursuant to Section VII. IMPLEMENTATION OF ANNEXES of this MOA. The authorities may include but are not limited to the following statutes:
1. 31 U.S.C. § 1535, the Economy Act, which provides that an agency may place an order with a major organizational unit within the same agency or another federal agency for goods or services if (a) amounts are available; (b) the ordering agency decides the order is in the best interest of the U.S. Government; (c) the agency filling the order is able to provide or obtain by contract the ordered goods or services; and (d) the agency decides the ordered goods or services cannot be obtained by contract as conveniently or economically by a commercial enterprise.
  2. 15 U.S.C. § 1525 (2<sup>nd</sup> paragraph), the Department's Joint Project Authority, which provides that the Department of Commerce may enter into joint projects with nonprofit, research, or public organizations on matters of mutual interests, the costs of which is equitably apportioned.

### **III. BACKGROUND AND PURPOSE**

- A. Since 1971, as agreed to by correspondence between the Secretary of the Navy and the NOAA Administrator, the Oceanographer of the Navy has served the additional duty of Naval Deputy to NOAA. The Oceanographer was chosen for this role due in part to the large number of oceanographic programs of mutual organizational interest under his/her purview.
- B. The established mission of the Naval Deputy to NOAA is to conduct liaison to avoid duplication of federal oceanographic activities; maintain a close relationship between NOAA and the Navy in research and development; and ensure that national security considerations are addressed in NOAA policy matters.
- C. The purpose of this umbrella MOA is to ensure optimum efficiency and maximum benefit to the United States by establishing a framework for cooperation and coordination between the Parties. This MOA is necessary and essential to further the mission of the Parties in that it will serve as an umbrella that sets forth the general terms and conditions under which the Parties may seek cooperative programs and activities, and acts as an instrument to more effectively carry out the responsibilities associated with these identified areas.

- D. This MOA is not intended to preempt or foreclose any ongoing or established arrangements or agreements between the Parties, with the exception of the existing Annexes to the previous umbrella MOA. It is intended to establish a mechanism to continue to pursue cooperation between the Parties, and increase centralized tracking and knowledge of this cooperation. Current and future agreements between the Parties in areas under the purview of Naval Meteorology and Oceanography (METOC) must be incorporated as Annexes to this MOA. Agreements between the Parties not directly under the Oceanographer of the Navy's purview, but within the mission of the Naval Deputy to NOAA, may also be included. Current Naval METOC Annexes are extended for six months beyond the last signature date of this MOA to allow for update and/or modification to reflect the terms and conditions of this Agreement, and for incorporation under this MOA. In case of conflict between this umbrella MOU and the existing METOC Annexes, which will be incorporated herein by reference, this umbrella MOU shall control, unless an explicit exception is approved in writing by the Executive Agents.

#### **IV. MUTUAL INTEREST OF THE PARTIES**

This MOA is of mutual interest to the Parties because it is designed to make it easier for the Parties to work together, when appropriate, in integrating their expertise and resources in addressing areas of mutual interest. Examples of those areas include, but are not limited to: meteorology, oceanography, geospatial information and services, astrometry, precise time and time interval, remote sensing, navigation and environmental readiness.

#### **V. PARTY REPRESENTATIVES AND JOINT RESPONSIBILITIES**

- A. Executive Agents. The Executive Agent for NOAA shall be the Deputy Undersecretary for Oceans and Atmosphere. The Executive Agent for the Department of the Navy shall be the Oceanographer of the Navy. The Executive Agents agree to:
1. cooperate in mutual areas of interest and share data, information and findings of mutual concern;
  2. establish specialized working groups of personnel, when necessary, to conduct studies, develop plans and provide program implementation guidelines for specific program areas as required;
  3. cooperate and support the operation of all program activities, technology application, development and related work pertaining to cooperative activities pursued under this MOA; and
  4. appoint one individual each to act as a Co-Chair to a Cooperation Oversight Board (COB).

- B. Cooperation Oversight Board. The COB will be responsible for the oversight and coordination of the activities under the MOA and shall provide guidance to the Parties in order to maximize its benefits.
1. Membership of COB:
    - a. The COB shall be Co-Chaired by one representative from each of the Parties to the MOA. Additional third party representatives from other Federal agencies may serve as members on the Board. The CO-Chairs shall limit third party representation to only those activities or projects that directly involve them.
    - b. The COB shall be composed of an equal number of representatives from the Parties. Although the number of members of the COB will be left to the discretion of the Co-Chairs, the broadest representation from the Parties is encouraged.
    - c. Co-Chairs shall present member nominees for consideration by the other Co-Chair. A nominee becomes a member of the COB on acceptance by the other Co-Chair and will remain a member until removal from the Board is agreed to by the Co-Chairs.
  2. Responsibilities of the COB:
    - a. Identify potential areas of cooperation and recommend new cooperative activities;
    - b. Propose mechanisms through which cooperative activities can be facilitated;
    - c. Oversee the development, negotiation and conclusion of individual agreements for specific work when mutually beneficial and agreeable;
    - d. Review and approve agreements which, when approved, will be attached to this MOA as Annexes;
    - e. Determine the appropriate level for approval and signature of Annexes within the Parties;
    - f. Review the progress of activities and make recommendations for enhancing their benefit; and
    - g. Recommend the termination of activities that are no longer considered relevant.
  3. COB Meetings:
    - a. The COB will meet at least annually at the convenience of the Co-Chairs.
    - b. Minutes of the meeting are to be recorded. Co-Chairs shall alternate the responsibility of keeping the minutes, with the alternation determined at the first meeting. At a minimum, the minutes shall record the approval or termination of any Annexes,

and any recommendations to the participating organizations and activity leaders.

- c. The Co-Chairs will determine the number of members needed for a quorum, with the number determined at the first meeting
- d. The Co-Chairs will report at least once annually to the Executive Agents on the current and potential activities being conducted under the MOA and any recommendations.

## **VI. FUNDING ARRANGEMENTS AND RESPONSIBILITIES**

- A. Expenditures of funds, human resources, equipment, supplies, facilities, training, public information, and technical expertise will be provided by each Party at their own expense to the extent that their participation is required and resources are available.
- B. The Parties are responsible for funding their respective areas of responsibilities under this MOA, unless otherwise agreed to in writing by the signatories or their designees. Any activities involving reimbursement or transfer of funds between the Parties to this Agreement will be documented in an Annex, as set forth in Section VII. IMPLEMENTATION OF ANNEXES, or handled in accordance with applicable laws, regulations, and implementing procedures.
- C. The transfer of funds between the Parties or the issuance of joint contracts will be permitted in support of specific projects where it is deemed to be the most efficient or beneficial arrangement for the successful execution of the activity. Joint contracts will be negotiated and entered into under applicable laws and acquisition regulations.
- D. This MOA does not restrict the Parties from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.
- E. The responsibilities of the Parties under this MOA and any Annexes thereto are subject to the availability of appropriated funds and other resources.

## **VII. IMPLEMENTATION OF ANNEXES**

- A. Each activity undertaken under this MOA will be developed as an Annex. Each Annex will incorporate the terms and conditions of this MOU; address specific projects and resources; describe in detail the scope of the services to be provided, including specific deliverables (i.e., goods and/or services), delivery schedules, unit cost for each deliverable, individual project managers, and other information, as necessary, to clearly describe the requested goods or services; address funding arrangements, including the complete accounting classification code structures, appropriation symbols for payment and collection, DUNS numbers of the Parties,

OMB MAX codes, Employer Identification numbers, Agency Location Codes; and invoke the appropriate legal and programmatic authorities of the Parties.

- B. To ensure consistency, Annexes will follow a format similar to this MOA and will be subject to all applicable statutory, regulatory, and other legal and administrative clearance requirements of the Parties.
- C. In case of conflict between an Annex and this umbrella MOU, the terms and conditions of this MOU will govern and prevail, with the exception of any provision dealing with the termination date of an Annex. Each Annex shall have its own termination date, which will supersede the termination date of this MOU.
- D. Prior to approving Annexes and modifications thereto, the COB will also coordinate with the National Ocean Service (NOS), Attn: Management and Budget Office (MB). NOS, as the lead NOAA Line Office for this umbrella MOA, will be responsible for tracking/assigning the control numbers for all subsequent Annexes and modifications thereto.
- E. Once approved by the COB, Annexes will be considered in effect upon the last signature of the approving officials involved in the activity. For areas outside of the Oceanographer of the Navy responsibilities, an additional signature will be required from the appropriate Navy level for areas meeting the Naval Deputy to NOAA mission.
- F. The Parties will immediately provide NOS MB a certified signature copy of each Annex or modifications thereto upon execution.
- G. The COB may recommend termination of Annexes with final approval residing with the Parties, as specified in Section IX, PERIOD OF AGREEMENT, MODIFICATION, OR TERMINATION, of this MOA.
- H. Activities having no major policy implications and involving no more than \$100,000 annually in resources may be negotiated outside of the COB. These activities will be treated as Annexes in accordance with this MOA and will be subject to all applicable statutory and regulatory requirements, and other legal and administrative clearance requirements of the Parties.
- I. Annexes which authorize joint contracting arrangements will include criteria for determining which Party shall issue and administer the contract obligations for input from the non-contracting Party and delineate the responsibilities of each Party for contract termination costs should the contract be prematurely terminated.
- J. Other Federal agencies may participate in Annexes within the scope of this MOA, as appropriate, if mutually agreed to by the Parties.

## VIII. CONTACTS

- A. The contacts for coordinating activities under this MOA are:
  - 1. Oceanographer of the Navy, Programs and Requirements Division Director.
  - 2. NOAA Deputy Undersecretary, Project Coordination Office applicable Line or Staff Office Liaisons.
- B. The Parties agree that if there is a change regarding the information in this Section, the Party making the change will immediately notify the other Party in writing of such a change.

## IX. PERIOD OF AGREEMENT, MODIFICATION, OR TERMINATION

- A. This MOA will become effective upon the date of the last signature and shall remain in effect for 10 years. The Parties agree to review the terms and conditions of this MOA, through the COB, at least once every three years to determine whether the MOA should be revised or canceled.
- B. This MOA may be amended at any time by mutual written consent of the Parties.
- C. Either Party may terminate this MOA or any Annex by providing 180 days written notice to the signatory of the other Party. Third party federal agencies that are participating in an Annex may also terminate the Annex by providing 180 days written notice to the other Parties.

## X. RESOLUTION OF DISAGREEMENTS

- A. Nothing herein is intended to conflict with current Department of Commerce or Department of Defense directives. If the terms of this MOA are inconsistent with existing directives of either of the Parties entering into this MOA, then those portions of this MOA which are determined to be inconsistent shall be invalid, but the remaining terms and conditions not affected by the inconsistency shall remain in full force and effect. At the first opportunity for review of the MOA, all necessary changes will be accomplished by either an amendment to this MOA or by entering into a new MOA, whichever is deemed expedient to the interests of the Parties.
- B. Should disagreement arise on the interpretation of the provisions of this MOA, or amendments and/or revisions thereto that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each Party and

presented to the other Party for consideration. If agreement on interpretation is not reached within 30 days, the Parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

APPROVALS:

ACCEPTED AND APPROVED FOR THE  
U.S. DEPARTMENT OF DEFENSE  
DEPARTMENT OF THE NAVY

ACCEPTED AND APPROVED FOR THE  
U.S. DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND  
ATMOSPHERIC ADMINISTRATION

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Conrad C. Lautenbacher, Jr.

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Vice Admiral, U.S. Navy (Ret.)  
Under Secretary of Commerce for  
Oceans and Atmosphere

24 January 2004

Date

DEC 19 2003

Date