DEPARTMENT OF THE ARMY
U. S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

APR 2 2008

CECW-PB

MEMORANDUM FOR COMMANDER, South Pacific Division (CESPD-DE)

SUBJECT: Implementation Guidance for Section 3117 of the Water Resources Development Act of 2007 (WRDA 2007) – Cooperative Agreements, New Mexico

1. Section 3117 of WRDA 2007 provides that the Secretary may enter into cooperative agreements with any Indian Tribe whose land is located in the State of New Mexico and occupied by a flood control project owned and operated by the Corps of Engineers to assist in carrying out any operation or maintenance (O&M) activity associated with the flood control project. A copy of Section 3117 is enclosed.

2. At the discretion of the District Commander, the Albuquerque District may evaluate its O&M programs to identify activities that might benefit from such assistance. Once such activities are identified, the District shall utilize the following procedure for executing cooperative agreements (CAs) under Section 3117:

a. The District will formulate an overarching draft Memorandum of Agreement (MOA) with each Tribe to set forth the proposed government-to-government relationship with the Tribe. The draft MOA will provide for subsidiary CAs to be executed with the Tribe to carry out specific activities. The draft MOA will also cover such matters as payment of funds and dispute resolution. The draft MOA shall be forwarded for MSC review and then transmitted to the SPD RIT, with MSC recommendations, for review by HQUSACE (CECW-P, CEPR and CECC) and approval by CECW-ZA. The approved MOA will be transmitted to the District for execution.

b. The District will subsequently negotiate the CAs, to include a Scope of Work for each CA, for the needed assistance. The District shall follow the Department of Defense Grant and Agreement Regulations, 3210.6-R Parts 21-22 (DGARS); Cost Principles for State, Local, and Indian Tribal Governments (formerly OMB Circular A-87), 2 CFR Part 225; and Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 32 CFR Part 33. The District shall have procedures in place to accomplish the evaluation of the annual performance reports required by 33 CFR 33.40.

c. The required CA format is enclosed with this guidance. Each such CA, with all attachments, shall be certified by SPA-OC for legal adequacy, forwarded for MSC review, and then transmitted to the SPD RIT, with MSC recommendations, for review by HQUSACE (CEPR and CECC), and approval by the Chief, SPD RIT. A Grants Officer with the appropriate warrant is authorized to execute each CA after its approval.

3. The covered O&M activities are subject to normal budget policy and fiscal law requirements.

FOR THE COMMANDER:

Encls

for DON T. RILEY
Major General, USA.
Director of Civil Works

ENCLOSURE 1

SEC. 3117. COOPERATIVE AGREEMENTS, NEW MEXICO.

(a) IN GENERAL- The Secretary may enter into cooperative agreements with any Indian tribe any land of which is located in the State of New Mexico and occupied by a flood control project that is owned and operated by the Corps of Engineers to assist in carrying out any operation or maintenance activity associated with the flood control project.

ENCLOSURE 2

U.S. ARMY ENGINEER DISTRICT ALBUQUERQUE
4101 JEFFERSON PLAZA NE
ALBUQUERQUE, NEW MEXICO 87109

COOPERATIVE AGREEMENT

PURSUANT TO THE MEMORANDUM OF AGREEMENT EXECUTED BY THE PUEBLO OF XXX AND THE U.S. ARMY CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT ("THE PARTIES") IN 200X, THE PARTIES EXECUTE THE FOLLOWING COOPERATIVE AGREEMENT:

1. Cooperative Agreement Title: "Pueblo of XXX-Activities to Meet 2003 Biological Opinion"

2. Cooperative Agreement Number: XXXXX- XX-XX

3. Awardee's Name and Address: Pueblo of XXX

4. Awardee's Tax Identification No: N/A

5. Program Director:

6. Statement of Work: The work to be accomplished is described in the Strategic Project Implementation Plan.

A. Title: Same as Project Title in 1, above.

B. Date of Proposal: February 28, 200X.

7. Grant Officer: _____, U.S. Army Engineer District, _____

8. Grant Officer's Technical Representative: _____, U.S. Army Engineer District, Albuquerque

9. Performance Period: 1 July 200X through 30 June 200X.

10. A. Award Amount: $X,XXX,XXX.00
W81XXXXXXXXX
B. Funded Amount: $ X,XXX,XXX.00

C. Funded Period: _____ through _____.

11. Appropriation Data:

12. Administered by: U.S. Army Corps of Engineers, Albuquerque District. 4101 Jefferson Plaza NE, Albuquerque, NM 87109. Certain administrative duties may be assigned to other governmental agencies.

13. Terms and Conditions: This cooperative agreement is subject to the General Terms and Conditions set forth in this agreement.

14. Options for Additional Periods of Performance: None

15. Payments will be made pursuant to the "Award and Payments of Funds" provision at Article III of the MOA.

16. Miscellaneous Provisions:

a. Attachment A which contains additional terms and conditions (if any) of this cooperative agreement is attached hereto and made a part hereof.

b. Attachment B which contains certifications and representations is attached hereto and made a part hereof.

c. The Statement of Work contained in the Project Management Plan, is attached hereto and made a part hereof.

d. Notwithstanding the Awardee's technical and cost proposals, the Federal Government's obligation is restricted to the funding stated in item 10 above.

Recipient: Pueblo of XXX, New Mexico

_____ DATE:_____

xxxxxxxxxxxxx
Governor

_____ DATE:_____

Grants Officer
USAED, Albuquerque