

DEPARTMENT OF DEFENSE

ASSISTANCE LISTING 12.400 NATIONAL GUARD MILITARY CONSTRUCTION PROJECTS

I. PROGRAM OBJECTIVES

The National Guard Bureau (NGB) enters into Military Construction Cooperative Agreements (MCCA) with the 50 states, District of Columbia, Commonwealth of Puerto Rico, the Virgin Islands, and Guam (grantees) to provide support to the Army National Guard (ARNG) and Air National Guard (ANG) for the construction of military facilities, real property improvements, design services, and other projects authorized and directed by Congress or the Department of Defense to be performed by the grantees and the NGB.

II. PROGRAM PROCEDURES

The Adjutant General (TAG) of the state military department and the United States Property & Fiscal Officer (USPFO) are responsible for the execution of the MCCA and other allowed projects to support the training and operations of their respective National Guard units. Policy and administrative procedures to be followed in the execution and funding of an MCCA are contained in National Guard Regulation 5-1, National Guard Grants and Cooperative Agreements, chapters 1 and 3.

An MCCA consists of four parts: the articles of agreement and three technical appendices. Articles I–XIII include standard terms and conditions applicable to the MCCA. The technical appendices provide specific information such as project description, scope, statement of work, and finance and budget plans.

ARNG MCCA technical appendices are titled differently from ANG MCCA technical appendices. ARNG budget and funding information is contained in Appendix SC. ANG finance and budget information is contained in the project design appendix.

The total amount of federal funding for MCCA projects is shown in the applicable technical appendix. Reimbursements to a grantee for an MCCA project or projects may not exceed the amount(s) approved by NGB, which includes any authorized/executed modifications to the original project amount.

Source of Governing Requirements

The NGB is authorized to enter into MCCAs under (1) 32 USC National Guard, Chapter 1, Organization; (2) 32 USC 101 (19); (3) 32 USC 106 and 107, which authorize the NGB to contribute funds for the support of the operations and training of the ARNG/ANG; and (4) NGR 5-1, National Guard Grants and Cooperative Agreements. Federal contribution is authorized by 10 USC 18233 and 18236, and DoD Instruction (DoDI) 1225.08 (10 May 2016) Enclosure 5.

Availability of Other Program Information

The National Guard Internal Review Office in each state and territory (which reports to the USPFO) can provide information about risk assessments and audits performed by their office, which may be helpful in planning the audit. Contact Mr. Derrick Miller, National Guard Bureau Internal Review Office, at (703) 607-0755, DSN 327-0755 or email derrick.e.miller.civ@mail.mil for information on the Internal Review Office for a particular state.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

| A | B | C | E | F | G | H | I | J | L | M | N |
|---------------------------------|---------------------------------|-----------------|-------------|--|---------------------------------------|-----------------------|--|----------------|-----------|-------------------------|------------------------------|
| Activities Allowed or Unallowed | Allowable Costs/Cost Principles | Cash Management | Eligibility | Equipment and Real Property Management | Matching, Level of Effort, Earmarking | Period Of Performance | Procurement and Suspension and Debarment | Program Income | Reporting | Subrecipient Monitoring | Special Tests and Provisions |
| Y | Y | Y | N | N | Y | Y | Y | N | Y | N | N |

A. Activities Allowed or Unallowed

Allowable activities are those designated as authorized in the appendices of the MCCA.

B. Allowable Costs/Cost Principles

1. Allowable costs under MCCAs are stated in NGR 5-1, Chapter 5, Paragraph 5-3 and the terms and conditions of the MCCA.

2. Indirect costs are unallowable except as stated in NGR 5-1, Chapter 5, Paragraph 5-3b.

G. Matching, Level of Effort, Earmarking

1. Matching

- a. Grantee match is specified in the project design finance plan section of the ANG MCCA technical appendix and in the project construction budget section of the ARNG MCCA technical appendix.
- b. Whenever the USPFO provides “in-kind” assistance the grantee is still required to provide its required match based on the combined value of the NGB funding and the value of the in-kind assistance (NGR 5-1, Chapter 9, Paragraph 9-2).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

H. Period of Performance

1. Federal MCCA design and construction funds are available for a period of up to five years and must be obligated within five years from the execution date of the MCCA or within the period of funds availability specified in the agreement.
2. Within 90 days of final completion of the project (execution date of the NGB Form 593-R, Project Inspection Report, by the state and the USPFO), or upon termination of the MCCA, whichever comes earlier, the grantee shall promptly deliver to NGB a full and final accounting liquidating all payments or reimbursements under the MCCA. Costs incurred for performance of the project which are not disclosed by the grantee within 90 days of the final completion of the project shall not be eligible for reimbursement. This excludes costs reserved for unliquidated claims or undisbursed obligations arising from the grantee’s performance of the MCCA; however, the grantee shall provide a good faith estimate of the total amount of unliquidated claims and undisbursed obligations. At its sole discretion, NGB acting through its grants officer—the USPFO—may extend the 90-day limit for good cause (NGR 5-1, Chapter 11, Paragraph 11-10).
3. An MCCA shall be executed by the USPFO and the TAG prior to any request for reimbursement or advance payment. However, pre-award costs may be authorized as provided in the MCCA (MCCA Article III, section 305d).

L. Reporting**1. Financial Reporting**

- a. *SF-270, Request for Advance or Reimbursement* – Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

DEPARTMENT OF DEFENSE

ASSISTANCE LISTING 12.401 NATIONAL GUARD MILITARY OPERATIONS AND MAINTENANCE (O&M) PROJECTS

I. PROGRAM OBJECTIVES

The National Guard Bureau (NGB) enters into cooperative agreements (CA) with the 50 states, District of Columbia, Commonwealth of Puerto Rico, the Virgin Islands, and Guam (recipients) to provide support to the Army and Air National Guard (ARNG/ANG) in minor construction, maintenance, repair, or operation of facilities, and mission operational support to be performed by recipients as authorized by NGB through operations and maintenance (O&M) appropriated funding.

II. PROGRAM PROCEDURES

NGB uses a CA as the means of providing financial assistance and other support to recipients for the operation of the NGB program in the recipient's jurisdiction, except for financial assistance and support provided under separate authority (e.g., military and technician pay and the military supply system). Recipients enter into a Master Cooperative Agreement (MCA) with the NGB. Generally, an MCA consists of two parts: (1) the agreement and (2) the appendices. The agreement includes the standard terms and conditions applicable to all appendices. The appendices contain the terms and conditions, policy, administrative procedures, scope of work, authorized and unauthorized activities/charges, budget information, funding limitations, and agreement particulars applicable to that functional area (e.g., real property operations and maintenance, security guard activities). Funding for the CA is identified in each of the appendices to the MCA. The total sum of federal reimbursements to the recipient for an MCA appendix may not exceed the approved funding limits identified in the funding limitation section of the appendix.

The Adjutant General (TAG) of the state military department and the United States Property & Fiscal Officer (USPFO) are responsible for the execution of the MCA and appendices.

Source of Governing Requirements

The NGB and recipients are authorized to enter into CAs under (1) 31 USC, Subtitle V, General Assistance Administration, Chapter 63, Using Procurement Contracts and Grant and Cooperative Agreements; (2) 31 USC Subtitle V, General Assistance Administration, Chapter 61, Program Information, and Chapter 65, Intergovernmental Cooperation; (3) 32 USC National Guard, Chapter 1, Organization; (4) 32 USC 101(19); (5) 32 USC 106 and 107, which authorize NGB to contribute funds for the support of the operation/training of the ARNG/ANG. Policies and procedures to be followed for CAs with recipients are contained in the National Guard Grants and Cooperative Agreements Regulation, NGR 5-1, and, for facilities and engineering projects, in NG Pamphlet 420-10, Construction and Facilities Management Office Procedures (July 18, 2003), which is available at <https://www.ngbpmc.ng.mil/Portals/27/Publications/NGPAM/ngpam%20420-10.pdf?ver=2018-09-07-082536-157>.

Availability of Other Program Information

The NGB Internal Review Office in each state and territory (which reports to the USPFO) can provide information about risk assessments and audits performed by their office, which may be helpful in planning the audit. Contact Derrick Miller, NGB Headquarters Internal Review Office, at (703) 607-0755, DSN 327-0755, or email to derrick.e.miller.civ@mail.mil for information on the Internal Review Office for a particular state.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

| A | B | C | E | F | G | H | I | J | L | M | N |
|---------------------------------|---------------------------------|-----------------|-------------|--|---------------------------------------|-----------------------|--|----------------|-----------|-------------------------|------------------------------|
| Activities Allowed or Unallowed | Allowable Costs/Cost Principles | Cash Management | Eligibility | Equipment and Real Property Management | Matching, Level of Effort, Earmarking | Period Of Performance | Procurement and Suspension and Debarment | Program Income | Reporting | Subrecipient Monitoring | Special Tests and Provisions |
| Y | Y | Y | N | N | Y | Y | N | N | Y | N | N |

A. Activities Allowed or Unallowed

1. Allowable activities for each appendix are those designated as authorized in the template for that appendix or for facilities for which support is authorized, listed in the Facilities Inventory and Support Plan (FISP) (National Guard Pamphlet 420-10, Chapter 2, and Article III of the MCA).
2. Unallowable activities are those listed in the unauthorized activities/charges section of each individual appendix.

B. Allowable Costs/Cost Principles

1. Indirect costs, except fringe benefits, are unallowable (NGR 5-1, Chapter 5).
2. Individual employee compensation comprises a significant portion of total costs charged to CA appendices. The auditor should give particular attention to the allocability of these costs. The distribution of individual employee compensation to projects must follow applicable federal cost principles, NGR 5-1, and the terms and conditions of the MCA and in each particular appendix. Therefore, the auditor's testing should include tests of the time and effort reporting system to support the distribution of compensation costs (NGR 5-1, Chapter 5).
3. States bill directly for the cost of premiums or self-insurance (e.g., unemployment, workers compensation). The amount billed for "insurance" is based on the proportion of state employees who work under NGB-funded appendices. The amount billed for retirement benefits is based on the wages of each employee working under NGB-funded appendices. In each case, those costs are adjusted by the federal-state share of federal support (e.g., training areas are 100 percent federally supported, armories are 50-50 federal-state shared).

However, for these costs to be reimbursable, all the requirements of NGR 5-1, Chapter 5 have to be met (NGR 5-1, Chapter 5):

- a. The individual cost items have to be reimbursable under the terms of individual appendices.
- b. Fringe benefit costs for which the state does not bill the state military department directly shall be reimbursable by applying a fringe benefit rate to the costs of actual salaries paid to employees.
- c. Fringe benefits, which are neither direct costs nor included in the billed central services section of the state's Central Service Cost Allocation Plan (CSCAP) approved by the Department of Health and Human Services (HHS), are not reimbursable.

G. Matching, Level of Effort, Earmarking**1. Matching**

- a. The recipient's required matching percentage varies by appendix and is listed in the Funding Limitation section of each MCA appendix. The NGB share of all authorized charges for real property, unless expressly stated elsewhere in the appendix, is based on the FISP support code for the facility generating the expenditure. For example, the NGB share of employee, repair, supply, equipment, utility, and other costs directly and exclusively associated with a facility that is authorized 75 percent federal support is 75 percent. NGB participation in costs generated for facilities authorized at several different support levels will be at a rate that reflects

the actual level of effort but not to exceed 25 percent of such costs (NG Pamphlet 420-10, Chapter 5).

- b. Whenever the USPFO provides “in-kind” assistance, the CA provides the value for that assistance, which is added to NGB funds received to determine the total amount on which the recipient’s share is calculated.
- c. The federal share of program income may not be used to meet a matching requirement (NGR 5-1, Chapter 6).

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

H. Period of Performance

1. NGB O&M CAs are funded with one-year appropriations. By policy, only state costs obligated during the period of the federal fiscal year or period of performance identified in the CA are reimbursable. Allowable state costs obligated after 30 September (e.g., 2018) are reimbursable with federal funds appropriated for the following fiscal year’s CA (e.g., fiscal year 2019). Whether and when state funds are properly obligated is determined by state law or procedure (NGR 5-1, chapters 3 and 11).
2. A CA shall be executed by the USPFO and the TAG prior to any request for reimbursement or advance payment. The recipient shall also have an approved appendix covering each functional area for which the reimbursement or an advance is requested. The recipient shall not request reimbursement for any expenditure it made before the date that all required parties execute the MCA unless the USPFO expressly authorizes expenditures made during the funding period, but prior to the date of final signature, the parties may also agree on a specific start or effective date (NGR 5-1, Chapter 11).
3. Within 90 days after the end of the federal fiscal year or upon termination of the CA, whichever is earlier, the recipient shall promptly deliver to the USPFO a final accounting of all funding and disbursements under the agreement for the fiscal year (NGR 5-1, Chapter 11).
4. If unliquidated claims and undisbursed obligations arising from the recipient’s performance of the CA will remain 90 days after the close of the federal fiscal year, the recipient shall provide a detailed listing of uncleared obligations and a projected timetable for their liquidation and disbursement no later than 31 December. The USPFO shall then set an appropriate new timetable for the recipient to submit its final accounting (NGR 5-1, Chapter 11).

5. Costs incurred in a federal fiscal year, which are not disclosed by the recipient within 90 days of the end of the federal fiscal year, except costs associated with unliquidated claims and undisbursed obligations arising from the recipient's performance of the CA that the recipient has reported, shall not be eligible for reimbursement by NGB. The USPFO may extend the 90-day limit for good cause shown (NGR 5-1, Chapter 11).

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
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