

ATTACHMENT 2

264 FW 2 Reimbursable and Intergovernmental Agreements – Policy and Procedure (dated 10/2009)

2.18 What are the requirements for approval of Reimbursable Agreements with Private Entities?

A. Regional Directors and Assistant Directors (or their designees) may sign reimbursable agreements with private entities when the agreement is for \$250,000 or less.

(1) The Project Leader at the field station that will perform the work drafts an approval memorandum for the Regional Director to sign and forwards it to the Regional Program or Budget and Finance Office for processing.

(2) The memorandum should include the information in Section 2.18B(1).

(3) A copy of the approved memorandum should be sent to the Assistant Director - Business Management and Operations

B. The Director must sign agreements with private entities that exceed \$250,000 and are not for spill response actions. The Assistant Director or the Regional Director must send a memorandum (see Exhibit 1) to the Director through the offices the agreement impacts and the Assistant Director – Business Management and Operations.

(1) The Project Leader at the field station that will perform the work drafts an approval memorandum for the Regional Director to sign and sends it to the appropriate Regional Program or Budget and Finance Office. The Regional Office sends a copy to the Assistant Director – Business Management and Operations (see Exhibit 1 below) for processing to the Director. The memorandum should include the following information:

(a) How the agreement will benefit the mission of the Service,

(b) Why the private entity needs the Service's expertise,

(c) Summary of scope of work and cost of agreement, and

(d) Assurance that working with the private entity will not cause a conflict of interest (see section 2.19).

(2) After both parties sign the agreement and we collect advance payment, we may perform reimbursable work.

(3) Federal appropriations law prohibits us from waiving advance payment from a private entity.

2.19 What factors should the Service consider when entering into a reimbursable agreement with a private entity? The factors below describe what you should consider when determining whether to enter into a reimbursable agreement with a private entity. The presence or absence of each factor does not force a decision but illustrates what you must consider when evaluating the circumstances.

A. Would the agreement maintain the integrity of the Department's and Service's programs and operations?

(1) Does the agreement appear to be (by its size or circumstance), an attempt to influence regulatory or other Departmental or Service authority?

(2) Does the agreement meet a legitimate Department or Service need?

(3) Is the agreement consistent with, and does not circumvent, law, regulation, or policy?

(4) Could the private entity use the agreement to state or imply the Department's or the Service's endorsement of the private entity or its products or services?

B. Does the agreement maintain the impartiality, and appearance of impartiality, of Departmental and Service employees?

(1) Is the agreement made to a program or in an amount that would influence or appear to influence any significant pending Department or Service decision or action involving the private entity's interests?

(2) Could someone construe the agreement as an actual or an implied commitment by the Department or the Service to take an action favorable to the private entity in exchange for doing work for the private entity?

C. Does the agreement maintain public confidence in the Department's and Service's programs and personnel?

(1) Will the agreement likely result in public controversy?

(2) Are conditions of the agreement consistent with the Department's and Service's policy, goals, and programs?

(3) Does the private entity have any significant known history of violations, whether criminal or civil in nature?

EXHIBIT 1

Memorandum

To: Director *-or- Regional Director*

Through: Assistant Director - Business Management and Operations -or- (if the Regional Director is the approval authority, provide a copy of the memorandum to the assistant Director – Business Management and Operations)

From: Assistant Director/Regional Director/Assistant Regional Director

Subject: Request for Reimbursable Authority with [name of private entity]

In accordance with Service Manual Part 264, Chapter 2, I request your approval to enter into an agreement with [name of private entity] for reimbursable work.

Consistency with the Service's National Mission

The [name of private entity] requested that the Service's [Region/field office] perform the following work:

Summary of services or product that we will provide and estimated reimbursement

We estimate that completion of this work will help to [benefits to be achieved], consistent with the Service's mission.

Why is _____ requesting the Service's expertise?

Summary of scope of work and cost of agreement.

After both parties accept this agreement, [name of private entity] agrees to make an advance payment to the U.S. Fish and Wildlife Service for \$_____.

Attachment(s)

____ Approved
____ Not Approved

Date: _____
Director, U.S. Fish and Wildlife Service
-or- Regional Director [see sections 2.5, 2.12, and 2.18 for conditions of Regional approval]

Comments:

