

Authorities and Guidance for Part 264, Cost Recovery and Reimbursable Agreements

You must include the statutory authority that allows the U.S. Fish and Wildlife Service (Service) to enter into reimbursable agreements and accept the funds for them to be deposited and credited to a Service account in the agreement. Unless an authority explicitly covers both the ordering (buyer) agency and the performing (seller) agency, each agency must have its own authority to enter into the agreement.

The list of authorities in the table below is not exhaustive. There may be other authorities more appropriate for employees to cite as the statutory authority for an agreement.

Authority	Summary
A. Administration, Polar Bears (16 U.S.C. 1423b)	Authorizes the Secretary of the Interior, acting through the Director of the Service to enter into agreements, with or without reimbursement, for personnel, services, or facilities of any other Federal agency, any State agency, or the Alaska Nanuq Commission to carry out the law or the agreement (e.g., Agreement between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, signed 10/16/2000).
B. Anadromous Fish Conservation Act (16 U.S.C. 757a-757g, as amended)	Authorizes the Secretaries of the Interior and Commerce to enter into cooperative agreements with the States and other non-Federal interests for conservation, development, and enhancement of anadromous fish, including those in the Great Lakes, and to contribute up to 50 percent as the Federal share of the cost of carrying out such agreements.
C. Appropriations Act for the Department of the Interior and Related Agencies	Beginning in Fiscal Year 1999 , annual appropriations act language for the Resource Management account authorizes the Service to enter into reimbursable agreements with private entities. The Director has delegated limited authority (see 264 FW 2).
D. Appropriations Act for the Department of the Interior and Related Agencies, 2000 (Public Law 106-113)	Authorizes the Service to: (1) Credit the Resource Management account for any advance payment received under reimbursable agreements with private entities; and (2) Carry out reimbursable work for State, local, and Tribal governments without advance payments under certain circumstances (see sections 2.16 and 2.17 of 264 FW 2).
E. Aquatic Nuisance Prevention and Control (16 U.S.C. 4701-4741)	The Secretary of the Interior may: (1) Enter into cooperative agreements with other agencies of the Federal Government, agencies of States and their political subdivisions, and private entities;

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	<p>(2) Accept funds, facilities, equipment, or personnel from other Federal agencies; and</p> <p>(3) Accept donations of property and services.</p>
<p>F. Awards (5 CFR 451.104)</p>	<p>Authorizes the Service to enter into agreements:</p> <p>(1) To reimburse the cost of an award for an employee of another agency;</p> <p>(2) If the benefiting agency makes arrangements to transfer funds to the employing agency to cover the award; and</p> <p>(3) If the administrative costs of transferring funds would exceed the amount of the award, the employing agency must absorb the award costs and pay the award.</p>
<p>G. Central Valley Project Improvement Act (Public Law 102-575)</p>	<p>The Secretary of the Interior must enter into a binding cost-share agreement with the State of California with respect to the timely reimbursement of costs allocated to the State in this law. The agreement must provide for consideration of the value of direct reimbursements, specific contributions to the Restoration Fund, and water, conveyance capacity, or other contributions in-kind that would supplement existing programs and that would, as determined by the Secretary, materially contribute to attainment of the goals and objectives of the law.</p>
<p>H. Coastal Zone Management (16 U.S.C. 1456c(a))</p>	<p>Each department, agency, and instrumentality of the Executive branch of the Federal Government may assist the Secretary of Commerce, on a reimbursable basis or otherwise.</p>
<p>I. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601)</p>	<p>(1) The Secretary of the Interior has the authority to address the release or threatened release of hazardous substances on or from land under the Department's jurisdiction, custody, or control. The Secretary has delegated this authority to the bureau directors.</p> <p>(2) The Service may utilize funding from the Central Hazardous Materials Fund (CHF) or a bureau-specific account that can be used for CERCLA response actions.</p> <p>(3) The Service is authorized to enter into an interagency agreement with the EPA, U.S. Forest Service, and the BLM to support risk assessment, cleanup, remediation, and restoration activities at CERCLA sites.</p>
<p>J. Consolidated Appropriations Act, 2019 (Public Law 116-6)</p>	<p>The Service may carry out the operations of Service programs by direct expenditure, contracts, grants, cooperative agreements, and reimbursable agreements</p>

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	with public and private entities.
K. Department of the Interior and Related Agencies Appropriations Act, 1998 (Public Law 105-83)	Authorizes the Secretary of the Interior to charge reasonable fees for the full costs of providing training by the National Conservation Training Center, and to be credited to this account, notwithstanding 31 U.S.C. 3302, for the full costs of providing such training, to remain available until expended.
L. The Economy Act of 1932 , as amended (31 U.S.C. 1535)	<p>(1) Authorizes agencies to purchase goods or services from other Federal agencies and major organizational units within the same agency.</p> <p>(2) Does not allow a Federal agency or Bureau/Office to receive a profit when providing goods or services.</p> <p>(3) Stipulates that the seller must obligate funds within the period of availability of the buyer's appropriation. That is, the seller must either properly obligate the funds against a procurement contract (or other agreement under authority other than the Economy Act) or complete the work internally before the funds expire. An exchange of funds under the Economy Act does not extend the availability of funds beyond the amount Congress provided in the applicable appropriations act.</p> <p>(4) Any restrictions, limitations, or requirements on the availability of appropriations to the Federal agency that exchanges the funds are also binding to the Federal agency that receives the funds.</p> <p>(5) The Federal agency that exchanges the funds remains responsible and accountable to Congress for the funds.</p> <p>(6) Provides both the authority for the ordering (buyer) agency to enter into the agreement and the performing (seller) agency to accept the funds.</p> <p>(7) Requires full cost recovery, so that the Service cannot waive indirect cost recovery.</p> <p><i>*Refer to the Department's Inter/Intra Agency Agreement Handbook for full definition.</i></p>
M. Federal Water Pollution Control Act (33 U.S.C. 1251)	Authorizes the EPA Administrator to enter into agreements and transfer funds with the Secretary of the Interior, and the heads of such other departments, agencies, and instrumentalities of the United States to achieve and maintain water quality and supplement funds otherwise

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	appropriated under the law.
N. Fee Schedule for Forensic Laboratory Services (16 U.S.C. 754d)	Beginning in 2001 the Service must establish and implement a fee schedule that allows non-Department of the Interior entities to pay back the Service for forensic laboratory services. The Service collects fees as the Director finds appropriate and credits them to this appropriation so they are available without the need for additional appropriation.
O. Fish and Wildlife Coordination Act (FWCA) (16 U.S.C. 661-667e)	<p>(1) Authorizes the Secretary of the Interior to provide assistance to and cooperate with specific entities to assist in the protection of fish and wildlife and their habitats.</p> <p>(2) In the case of construction by a Federal agency, they are authorized to transfer funds to the Service for FWCA investigations, engineering, or construction.</p>
P. Further Consolidated Appropriations Act, 2020 (Public Law 116-44)	The Service may accept and expend up to \$5.4m in funding from the Secretary of the Army for operation and maintenance costs to mitigate for fisheries lost due to Corps of Engineers projects.
Q. Great Lakes Fisheries Act of 1956 (16 U.S.C. 15A, 16 U.S.C. 931-939))	The Service is authorized to perform work for the Great Lakes Fishery Commission on the sea lamprey program on a reimbursable basis. Reimbursements are to be treated as intragovernmental funds.
R. Great Lakes Fish and Wildlife Restoration Act of 2006 (Public Law 109-326)	<p>(1) Allows Federal agencies, States, and Tribes to work in an effective partnership by providing the funding for restoration work.</p> <p>(2) Authorizes the Director in cooperation with the State Directors and Indian Tribes, to identify, develop, and, subject to the availability of appropriations, implement regional projects in the Great Lakes Basin.</p>
S. Homeland Security Act of 2002 (Public Law 107-296)	Authorizes the Department of Homeland Security to detail personnel of the Federal Government that the President considers appropriate for the performance of analytic functions and related duties. The details may be done on a reimbursable or non-reimbursable basis using a cooperative agreement.
T. Impounding, Diverting, or Controlling of Waters (16 U.S.C. 662)	Authorizes the Service to receive appropriations or other funding from another Federal agency for investigations, engineering, or construction related to the law.
U. Intergovernmental Cooperation (31 U.S.C. Subtitle V, Chapter 65, Sections 601-608)	<p>(1) Authorizes the head of any Federal agency to provide reimbursable specialized or technical services to State and local governments.</p> <p>(2) The government agency requesting specialized services must pay salaries and all other identifiable direct</p>

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	and indirect costs of performing such services.
V. Intergovernmental Personnel Act 1970 (5 U.S.C. 3371-3376)	Permits the temporary assignment of personnel between Federal agencies, State and local governments, Tribes or Tribal organizations, institutions of higher education, and other eligible organizations. Assignments are for specific work beneficial to the State, local government, Tribe, or other eligible organizations and the Federal agency concerned.
W. Marine Protection Research and Sanctuaries (33 U.S.C. 1441-1445)	Authorizes the Secretary of Commerce to utilize the personnel, services, and facilities of the Service and enter into appropriate inter-agency agreements to accomplish the law.
X. National Wildlife Refuge System Administration Act (16 U.S.C. 668dd)	<p>Allows the Service to:</p> <p>(1) Enter into contracts with any person or public or private agency to provide public accommodations on refuges when, and in such locations, and to the extent that the Secretary determines will not be inconsistent with the primary purpose for which the affected area was established;</p> <p>(2) Accept donations of funds and to use such funds to acquire or manage lands or interests within the National Wildlife Refuge System;</p> <p>(3) Acquire lands or interests by exchange or remove acquired lands;</p> <p>(4) Subject to standards established by the Director, enter into cooperative agreements with State fish and wildlife agencies for the management of programs on a refuge; and</p> <p>(5) Issue regulations to carry out this Act.</p>
Y. Oil Pollution Act of 1990 (Public Law 101-380)	Provides authority for Federal, State, and Tribal natural resource trustees to work together to identify and quantify injuries resulting from the release of oil spills. Trustees then determine the appropriate measures to restore injured resources and may recover the costs associated with the restoration from responsible parties. We may use funds we recover from responsible parties without further appropriation to restore, replace, or acquire the equivalent of injured resources.
Z. Resources and Ecosystems Sustainability, Tourist	(1) The Gulf Coast Ecosystem Restoration Council acting through Federal agencies, must expend funds made available to carry out projects and programs.

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<p>Opportunities, and Revived Economies (RESTORE) of the Gulf Coast States Act Pass-Through (33 U.S.C. 1321(t)(2)(E)(i) and (ii))</p>	<p>(2) Amounts necessary to carry out each project or program must be transferred by the Secretary of the Treasury to the Federal agency, subject to conditions, in consultation with the Secretary of the Interior and the Secretary of Commerce.</p>
<p>AA. Robert T. Stafford Disaster Relief and Emergency (42 U.S.C. 5121-5201)</p>	<p>Allows Federal agencies to be reimbursed for expenditures from funds appropriated for the purposes of the Act. The Service must deposit funds received to the credit of the appropriation or appropriations currently available for such services or supplies. *Disaster declaration required.</p>
<p>BB. Service First (Public Law 109-54; 43 U.S.C. 1703)</p>	<p>(1) Authorizes the Department and the U.S. Department of Agriculture (USDA) to enter into inter-agency agreements to promote customer service and efficiency.</p> <p>(2) Service First projects involving reimbursement of funds must be documented with an inter-agency agreement.</p>
<p>CC. Sikes Act (16 U.S.C. 670a-670o)</p>	<p>(1) Allows the Departments of the Interior and Defense to cooperate with each other and with State agencies in planning, developing, and maintaining fish and wildlife resources on military reservations throughout the United States.</p> <p>(2) An amendment enacted August 8, 1968 (P.L. 90-465) authorizes a program for development of outdoor-recreation facilities.</p>
<p>DD. Title V of the Independent Offices Appropriation Act (IOAA) of 1952 (31 U.S.C. Subtitle VI, Chapter 97, Section 9701)</p>	<p>(1) Authorizes the head of a Federal agency to prescribe regulations establishing the charge for a service, resource, or product the agency provides.</p> <p>(2) Charges are subject to the policies of the President and must be fair and based on the cost to the Government, the value of the service or product to the recipient, and other relevant facts.</p>
<p>EE. To Authorize the Bureau of Reclamation to Provide Cost Sharing for the Endangered Fish Recovery Implementation Programs for the Upper Colorado and San Juan River Basins (Public Law 106-392)</p>	<p>Authorizes the Bureau of Reclamation to enter into agreement with the Service to acquire and transfer interests in land, water, and facilities, and give grants in order to carry out the purposes of this act.</p>
<p>FF. Upper Colorado and San Juan River Basins Endangered Fish</p>	<p>(1) Authorizes appropriations to the Secretary of the Interior, acting through the Bureau of Reclamation, to undertake capital projects for the Recovery</p>

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<p>Recovery Programs (Public Law 106-392, amended 112-270, 116-9)</p>	<p>Implementation Program for Endangered Fish Species in the Upper Colorado River Basin and the San Juan River Basin Recovery Implementation Program. Amendments approved on March 12, 2019, Public Law 116-9 extending through 2023.</p> <p>(2) Limits the Service indirect cost recovery rate to 3%.</p>
<p>GG. Water Resources Development Act of 2000 (Public Law 106-541)</p>	<p>Authorizes the Secretary of the Interior to receive reimbursement for the direct administrative costs (including survey costs) incurred in carrying out conveyance activities under this title, taking into consideration any cost savings achieved resulting from a cabin site purchase.</p>
<p>HH. Watershed Restoration and Enhancement Agreements (16 U.S.C. 1011)</p>	<p>In general for each fiscal year since 1997, appropriations made for the Bureau of Land Management, including appropriations for the Wildland Fire Management account allocated to the Fish and Wildlife Service, may be used by the Secretary of the Interior to enter into cooperative agreements with the heads of other Federal agencies; Tribal, State, and local governments; private and nonprofit entities; and landowners for the protection, restoration, and enhancement of fish and wildlife habitat and other resources on public or private land and the reduction of risk from natural disaster where public safety is threatened and that benefit the resources on public lands within the watershed.</p>