



**ATTACHMENT 9.3.2 (12509-SPD EIS SOP)
Statement of Responsibilities
(Template)**

**STATEMENT OF RESPONSIBILITIES
REGARDING PREPARATION OF ENVIRONMENTAL IMPACT STATEMENT
FOR DEPARTMENT OF ARMY PERMIT APPLICATION
CORPS FILE NO. **SPX-XXXX-XXXXX****

A. PURPOSE

1. This Statement of Responsibilities (SOR) is between the U.S. Army Corps of Engineers (“USACE”), **[INSERT DISTRICT NAME]** District, **[APPLICANT’S NAME]** (“Applicant”), and **[THIRD-PARTY CONTRACTOR’S NAME]** (“Third-party contractor”).
2. The Applicant has submitted an application for a Department of the Army (DA) permit under Section 404 of the Clean Water Act **[and/or Section 10 of the Rivers and Harbors Act of 1899]**. The application requests authorization to discharge dredged and/or fill material into waters of the United States **[and/or to place structures or perform work in, over under or affecting navigable waters]** to **[ENTER BRIEF PROJECT DESCRIPTION AND PROJECT PURPOSE, IF ALREADY DETERMINED BY THE CORPS]** (“Proposed Action”).
3. The USACE has determined an Environmental Impact Statement (EIS) under the National Environmental Policy Act of 1969 (NEPA) will be prepared prior to making a decision on the DA permit application for the project. The EIS must comply with all provisions of NEPA and its implementing regulations. In particular, the EIS must comply with the provisions of 33 C.F.R. Part 230 and 33 C.F.R. Part 325, Appendix B.
4. It is the purpose of the SOR to establish an understanding between USACE, Third-party contractor and Applicant regarding the responsibilities of the parties in the preparation of the EIS. This SOR defines the conditions and procedures to be followed in preparing and completing the EIS, including the environmental and technical information, collection, analysis, and reporting necessary for USACE to comply with NEPA and applicable regulations.

B. GENERAL PROVISIONS

1. USACE is the lead agency responsible for preparation of the EIS. As such, USACE is responsible for the management of the EIS and for assuring compliance with all requirements of NEPA and applicable Federal laws, regulations and executive orders. USACE will ensure the EIS is properly scoped, addresses relevant and significant environmental concerns and analyzes a reasonable range of alternatives.

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2. Third-party contractor, selected by the USACE, prepares the EIS for the Proposed Action. The Third-party contractor principals and all subcontractors to be involved in preparing the EIS will be evaluated for experience in preparing NEPA documents and other related expertise and must be acceptable to USACE. Any changes in principals and subcontractors used in the analysis will require approval by USACE.
3. Third-party contractor reports directly to USACE. Although Third-party contractor will be paid by Applicant, Third-party contractor is obligated to follow the direction of USACE for preparing the EIS. Applicant will not direct the interpretation, modification or inclusion of any data, evaluations, or other materials pertinent to the preparation of the EIS. USACE will make the final determination on the inclusion or deletion of any material in the EIS. USACE will contact Applicant before authorizing changes beyond the approved Scope of Work (SOW).
4. Third-party contractor, under the sole direction of the USACE and to the USACE's satisfaction, is responsible for successfully completing tasks identified in the SOW approved by the USACE.
5. The requirements of 40 C.F.R. § 1506.7(c) relating to conflicts of interest must be followed. Third-party contractor cannot have any financial or economic interest in the outcome of the Applicant's proposed action. Third-party contractor has executed a Disclosure Statement (see attached).
6. Applicant agrees to enter into a contract with Third-party contractor that is consistent with the terms of this SOR and USACE-approved SOW. Applicant agrees to pay Third-party contractor for all services rendered in the preparation of the EIS. Third-party contractor and Applicant agree USACE is not obligated financially for the services rendered by Third-party contractor relating to the preparation of the EIS for the proposed action.
7. At the USACE's direction, Third-party contractor prepares and revises the EIS during the EIS process. At the administrative and screen-check review phases of the draft and final EIS, USACE will provide comments to the Third-party contractor. Third-party contractor will track all USACE comments at these stages, showing in table format and redline version the changes made to the document in response to USACE comments.
8. USACE, with assistance from the Third-party contractor, is responsible for scoping the EIS, including public meetings and notices. USACE will publish a Notice of Intent in the Federal Register. Third-party contractor will complete a scoping report to inform the preparation of the EIS.
9. Third-party contractor will provide to USACE an administrative draft EIS (ADEIS) and a screen-check DEIS in accordance with the USACE-approved SOW.

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10. Before the ADEIS is completed, the Applicant will be provided an opportunity to review the introduction, purpose and need, and discussion of alternatives (usually Chapters 1 and 2) to verify facts presented therein. The Applicant will have [INSERT # OF CALENDAR DAYS] to provide comments to USACE.

11. When the ADEIS is completed, the USACE will provide the Applicant an opportunity to review the entire document and identify any information the Applicant believes is missing or erroneous. The USACE will provide the Applicant a reasonable period of time to review the ADEIS either in the USACE office or in another agreed upon location or forum. The Applicant will inform USACE in writing of any such missing or erroneous information.

12. Upon completion of the DEIS, USACE is responsible for publishing the Notice of Availability in the *Federal Register*. USACE, with assistance from the Third-party contractor, will advertise and conduct public meetings. USACE will electronically file the DEIS with the U.S. Environmental Protection Agency (USEPA).

13. After the close of the DEIS review and comment period, USACE will identify the comments that require response in the Final EIS (FEIS). USACE will provide these comments to Third-party contractor for evaluation and response. USACE will work with the Third-party contractor to determine any changes needed to produce the FEIS. USACE will review the completed document and file the FEIS with USEPA.

14. Upon completion of the FEIS, USACE is responsible for publishing the Notice of Availability in the *Federal Register*. USACE will electronically file the FEIS with the USEPA.

15. Not less than 30 days after the FEIS is filed with USEPA, the USACE will prepare a Record of Decision (ROD). A DA permit decision will follow the issuance of the ROD.

C. DESIGNATION OF REPRESENTATIVES AND RESPONSIBLE OFFICIALS

1. For the purpose of coordinating preparation of the EIS for the proposed action, the following are designated as points-of-contact (POCs) for the parties:

a. Applicant:

[APPLICANT POC NAME]
[APPLICANT ORG NAME]
[APPLICANT ADDRESS]
[APPLICANT CITY, STATE, ZIP]

b. Third-party contractor:

[THIRD-PARTY CONTRACTOR POC NAME]
[THIRD-PARTY CONTRACTOR ORG NAME]

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[THIRD-PARTY CONTRACTOR ADDRESS]
[THIRD-PARTY CONTRACTOR CITY, STATE ZIP]

c. USACE:

[USACE PM NAME]
U.S. Army Corps of Engineers, [DISTRICT]
[USACE PM ADDRESS]
[USACE PM CITY, STATE ZIP CODE]

2. The USACE delegated responsible official is:

[NAME]
[TITLE]
U.S. Army Corps of Engineers, [DISTRICT]
[ADDRESS]
[CITY, STATE ZIP CODE]

3. The POCs named above will meet once per month or as otherwise agreed upon, during preparation of the EIS to discuss the status of the process and document, timeline and any information needed from the Applicant.

D. TERMINATION AND MODIFICATION

1. This SOR remains in effect until the FEIS is completed and a decision is made on the DA permit application, or until such time the permit application is withdrawn, whichever occurs first.

2. Either Applicant or USACE may terminate this SOR at anytime with 30 days written notice to other parties. During the 30-day period, the parties will actively attempt to resolve any disagreement. In the event of termination of this SOR, and if the preparation of the EIS is still required, the parties agree USACE owns the work product but the Applicant will be provided access to all documentation developed by Third-party contractor.

3. Either Applicant or USACE may modify this SOR by notifying the other party in writing. The proposed modification will become effective when all parties have provided written acceptance of the modification.

E. MISCELLANEOUS

1. This SOR will not affect any pre-existing or independent relationships or obligations between Parties.

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2. The USACE participation in this SOR does not imply endorsement of the Applicant's project nor does it diminish, modify, or otherwise affect the USACE's statutory or regulatory authorities.

3. This SOR, including any documents incorporated by reference or attachments thereto, constitute the entire agreement between the Parties. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein and will be of no further force or effect.

4. This SOR does not confer any right or benefit, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

F. EFFECTIVE DATE

This SOR will be effective as of the last date signed below.

Applicant:

Date

Third-party contractor:

Date

USACE Delegated Responsible Official:

Date