



U.S. Department  
of Transportation  
Federal Aviation  
Administration

Eastern En Route &  
Oceanic Area Office

P.O. Box 20636  
Atlanta, GA 30320

SEP 28 2004

Mr. Robert T. Jacobs  
Regional Forester  
1720 Peachtree Road, NW  
Suite 900  
Atlanta, GA 30367

Dear Mr. Jacobs:

Enclosed is the signed agreement between the Federal Aviation Administration (FAA) and the USDA Forest Service, Southern Region, under which the FAA will provide temporary air traffic control services in support of Forest Service activities. The document outlines coordination procedures and terms for reimbursement for such services.

If you have any questions or need additional information, please contact Jeff Hall, Special Events Coordinator, at (404) 305-5514.

Sincerely,

Mark D. Ward  
Manager, Operations Branch

Enclosure

- cc:
- ASO-1 (w/enclosure)
- ASO-20 (w/enclosure)
- ASO-470 (w/enclosure)
- ASO-530.6 (w/enclosure)

2004 SEP 29 12:30

U.S. FOREST SERVICE  
SOUTHERN REGION

FAA/USDA FS  
04-IA-11083150-140  
SO03850718

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## INTERAGENCY AGREEMENT

Between

DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
SOUTHERN REGION

And

USDA FOREST SERVICE - SOUTHERN REGION

### I. PURPOSE:

This agreement sets forth the terms and conditions under which the Department of Transportation, Federal Aviation Administration, Southern Region, (hereinafter called the "FAA") will provide temporary airport traffic control tower services in support of the USDA Forest Service, Southern Region, (hereinafter called "FS") activities, and outlines the basis for reimbursing the FAA for such services.

The FAA is able to furnish directly or by contract, supplies, equipment, and services to the FS for support of a program the FAA has determined supports the FAA's mission. The FS requires this support, has funds available for reimbursing the FAA, and has determined these goods and services should be obtained from the FAA.

The FAA has also determined these services or goods are not readily available commercially; competition with the private sector for provision of such goods and services is minimal; the proposed activity will advance the FAA's mission; and the FAA has a unique capability that will be of benefit to the FS while helping to advance the Agency's mission.

This agreement is authorized under the Economy Act, 31 U.S.C. § 1535 (as amended) and 49 U.S.C. § 106 (l) and (m).

This agreement supersedes "Interagency Agreement number 10-98 & PF-IA-IP", as amended, which was effective until September 30, 2003.

### II. BACKGROUND:

The FS is responsible to coordinate the activities and provide support for the control of forest and range fires within the continental limits of the southern United States. A major forest fire frequently requires the use of a strategically situated uncontrolled airport to serve as the staging area for aerial support activities. Mass deployment of personnel, supplies, and equipment by large numbers of aircraft congests airspace at the airport in use. In recognition of the safety and efficiency introduced by airport traffic control services, the FS has agreed to consummate a reimbursable agreement with the FAA for the provision of temporary airport traffic control tower service on short notice at uncontrolled airports (referred to hereinafter as "staging airports").

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### III. SCOPE:

The procedures and agreements set forth in this agreement apply to the Southern Region of the FAA (which includes the States of Georgia, Florida, Alabama, Mississippi, Kentucky, North and South Carolina, and the Caribbean) and the Southern Region of the USDA Forest Service. In the event the FS desires to enter into similar agreements with the FAA in other regions, it shall do so by a separate agreement between the FS and the other participating region (s).

### IV. RESPONSIBILITIES:

The responsibility of the FAA to provide temporary airport traffic control tower services and the incumbent responsibilities of the FS are defined and limited by the following provisions:

#### USDA Forest Service:

- a) The FS shall make all requests for the initiation and termination of the temporary tower services in accordance with the notification procedures prescribed in Paragraph V of this agreement.
- b) The FS shall reimburse the FAA for all costs resulting from the provision of temporary airport traffic control tower services in accordance with Paragraph VII of this agreement.
- c) The FS will coordinate with other fire fighting agencies to encourage the channeling of all requests for temporary tower service in the geographical areas under the responsibility of the FAA Southern Region through the FS Southern Area Coordination Center.
- d) Transportation of FAA personnel to and from the temporary airport air traffic control sites shall be provided by the FS, either directly or through reimbursement to the FAA, as outlined in Paragraph VII of the agreement. Whenever such transportation is to be by aircraft, it shall be an aircraft that is properly equipped and certified for the carrying of passengers.
- e) The FS shall provide surface transportation for FAA personnel on duty at temporary airport traffic control tower locations and shall insure the availability of adequate meals and lodging. Restroom facilities shall be available to personnel on duty at the temporary control tower site.
- f) The FS shall, itself or by agreement or arrangement with fire fighting units, provide for the reasonable protection of FAA personnel assigned to temporary towers in fire threatened areas.

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#### Federal Aviation Administration

- a) The FAA will provide temporary airport air traffic control services within the geographic areas of its responsibility, subject to the availability of qualified air traffic control personnel.
- b) The FAA shall retain the prerogative to terminate any or all parts of the temporary airport traffic control tower services provided to the FS, should the FAA determine a requirement of higher priority dictates the recall of all or certain of its personnel and/or air traffic control equipment.
- c) The FAA shall keep the FS informed of the telephone numbers of its Regional Operation Center (ROC), which affords a full-time point-of-contact.

#### **V. NOTIFICATION:**

##### USDA Forest Service

- a) The FS shall alert the FAA Southern ROC whenever a requirement for temporary tower service is anticipated. The nature of the emergency and location of the staging airport shall be specified.
- b) The FS shall update the alert notification at 24-hour intervals until the pending request is either confirmed or withdrawn.
- c) The FS shall notify the FAA Southern ROC when temporary tower service is officially requested, or when tower service already in operation is no longer required.
- d) The principal contact is:

Marc Rounsaville  
USDA Forest Service, Southern Region  
1720 Peachtree Road, NW  
Suite 900  
Atlanta, GA 30367  
Phone: (404) 347-3464

The administrative contact is:

Becky Rawlins  
Same address as above  
Phone: (404)347-2777  
Fax: (404)347-2776  
Email: [rawlins@fs.fed.us](mailto:rawlins@fs.fed.us)

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### Federal Aviation Administration

a) The principal contact is:

Mark D. Ward  
Manager, Operations Branch, ASO-530  
DOT/FAA Southern Region Headquarters  
P.O. Box 20636  
Atlanta, GA 30320-0631  
Phone: (404) 305-5570

### **VI. PROVISION OF TEMPORARY CONTROL TOWER SERVICES**

Subject to the availability of qualified air traffic control personnel, the FAA shall furnish at such location within the geographical area administered by the Southern Region and at such times as may be mutually agreed upon in accordance with this agreement, the following services, equipment, and personnel:

- a) Airport traffic control services for aircraft operating to and from the staging airport.
- b) Airport traffic control tower equipment necessary for the provision of air traffic control services.
- c) Airport traffic control specialists qualified to provide air traffic control services.

### **VII. REIMBURSEMENT, PERFORMANCE, AND ACCOUNTING**

The FS agrees to reimburse the FAA for costs incurred by the FAA in fulfilling this agreement. The costs to be recovered by the FAA for services rendered to another Federal government agency shall be in consonance with statutes and regulations of the United States Office of Management and Budget. These costs will include:

- a) Actual costs incurred by the FAA in furnishing services under this agreement such as additional operational expenses including, but not limited to, overtime pay, premium pay, cost of transportation and per diem for FAA personnel and equipment.
- b) An administrative overhead charge of 17 percent (17%) added to the actual cost total. The overhead rate shall be adjusted automatically and without the necessity for formal amendment upon issuance of revised rates under the United States Department of Transportation, Federal Aviation Administration Order 2500.35C.

This agreement will be supplemented with individual requests for goods and services and documented on Standard Form AD-672 and/or an Intragency Resource Order. The amounts contained in the form AD-672 are estimates and may be adjusted to recover the FAA's actual costs.

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If, during the course of this agreement, actual costs are expected to exceed estimated costs by more than 10 percent (10%), the FAA will notify the FS as soon as this is known, but not less than 30 days prior to submission of the final billing.

The FAA hereby assigns performance and managerial supervision of this agreement to the Southern Region. The Financial Services Office is identified as the billing office for this agreement. Their mailing address is:

Federal Aviation Administration  
Financial Services Division, ASO-22  
P.O. Box 47519  
Atlanta, GA 30320  
Phone: (404) 305-7000

The FS hereby identifies the office to which the FAA will render bills as:

USDA Forest Service, Southern Region  
Financial Management Unit  
1720 Peachtree Road, NW  
Suite 900  
Atlanta, GA 30367  
ATTN: Janice Lowe

Or such other offices as the FS may from time to time designate in writing.

At the end of each billing period (January, April, July, October), the FAA shall submit to the FS a written invoice setting forth the expenses incurred by the FAA in fulfilling this agreement.

The FS agrees to make timely payment of invoices presented and in all cases no later than 30 days from the date on invoice.

#### **VIII. PERIOD OF AGREEMENT AND EFFECTIVE DATE**

This agreement is executed as of the last date signed and expires on September 30, 2008, at which time it will be subject to review, renewal, or expiration. Services provided prior to the final execution of agreement are covered under the provisions of this agreement. Notwithstanding the above, the agreement will remain in effect until the final invoice has been paid.

#### **IX. AMENDMENT**

Modification within the scope of this agreement shall be made by mutual consent of the parties by the issuance of a written modification, signed and dated by both parties, before

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any changes being performed. The FS is not obligated to fund any changes not properly approved in advance.

#### **X. TERMINATION**

Either party may terminate this agreement in whole, or in part, at any time before the date of expiration. Neither party shall incur any new obligations for the terminated portion of the agreement after the effective date and shall cancel as many obligations as possible. Full credit shall be allowed for each party's expenses and all non-cancelable obligations properly incurred up to the effective date of termination. The parties agree termination is accomplished by providing 30-days written notice to the opposing representative signing this agreement.

#### **XI. ACCESS TO RECORDS**

Each party shall give the FAA, FS, or the United States Comptroller General, through any authorized representative, access to and the right to examine all books, papers, or documents related to this agreement.

#### **XII. PROTECTION OF INFORMATION**

The parties agree they shall take appropriate measures to protect proprietary, privileged, confidential or otherwise sensitive information that may come into their possession as a result of this agreement.

#### **XIII. RESTRICTION FOR DELEGATES**

Pursuant to Section 22, Title 41, United States Code, no member of, or delegate to Congress shall be admitted to any share or part of this agreement, or any benefits that may arise there from.

#### **XIV. OBLIGATIONS**

Nothing herein shall be considered as obligating the FS to expend or as involving the United States in any contract or other obligations for the future payment of money in excess of funding approved and made available for payment under this agreement and modification thereto.

#### **XV. LIABILITY**

In accordance with applicable law and the provisions of this agreement, each party assumes full responsibility for injury or to or loss of life of its own personnel in the course of work under this agreement.

Each party assumes full responsibility for damage to, or loss of its own equipment or material in the course of work under this agreement.

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In accordance with applicable law, each party will be responsible for settlements of claims arising from acts by its personnel, which results in third party property damage, personal injuries, or death during the course of work under this agreement.

#### **XVI. DISPUTES**

If the parties to this contract find they disagree as to any term or condition of this contract, both parties agree to enter into binding arbitration. Said binding arbitration shall be before a 3-member arbitration panel located in Washington, DC.

The panel will consist of personnel each of whom has at least 5-years of government contracting experience at a level of responsibility equal to at least that of a Contracting Officer holding a Contractor's Warrant. The parties agree panel membership shall consist of one member chosen by the FAA, one chosen by the FS, and one to be agreed upon by both parties. If the parties are unable to reach agreement as to who should sit as the third Panel member, the parties agree the FAA Office of Dispute Resolution for Acquisitions (ODRA) shall pick the third panel member.

Both parties to this contract may submit to the arbitrations panel whatever information is support of their respective positions they view appropriate and or applicable for the panel's consideration. Each party is to also concurrently provide the other with a copy of the information they provide the panel. One supplemental submission may also be made. Said supplemental submission must address the issues or concerns identified by an opposing party's first submission.

All parties to this contract agree they will be able to provide written answers to interrogatories presented by the arbitration panel collectively or its members individually.

A failure to concurrently submit copies is deemed an expression of bad faith, and the panel may draw what inferences it considers appropriate there from. Likewise, a failure to provide complete or timely responses to interrogatories will be deemed bad faith and the panel may draw what inferences it considers appropriate.

The parties agree to equally share any costs of arbitration.

#### **XVII. CONSTRUCTION OF THE AGREEMENT**

This agreement is an "other transaction" issued under 49 USC 106(l) and (m) and is not a procurement contract, grant, or cooperative agreement. Nothing in this agreement shall be construed as incorporating by reference or implication any provision of Federal acquisition law or regulation.

Each party acknowledges that all parties hereto participated equally in the negotiation and drafting of this agreement and any amendments thereto, and that, accordingly, this agreement shall not be construed more stringently against one party than against the other.

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**XVIII. WARRANTIES**

The FAA makes no express or implied warranties as to any matter arising under this agreement, or as to the ownership, merchantability, or fitness for a particular purpose of any property, including any equipment, device, or software that may be provided under this agreement.

**XIX. ENTIRE AGREEMENT**

This document is the entire agreement of the parties, who accept the terms of the agreement as shown by their signatures below. In the event the parties duly execute any amendment to the agreement, the terms of such amendment shall supersede the terms of this agreement to the extent of any inconsistency.

Federal Aviation Administration

U.S. Forest Service

By Carolyn Blum

By for Robert T. Jacobs

Date 8/26/04

Date 8/16/04

CAROLYN BLUM  
Regional Administrator  
FAA Southern Region Headquarters  
1701 Columbia Avenue  
College Park, GA 30337  
Telephone: (404) 305-5000  
(404) 305-5180 (ROC - 24 HRS)

for ROBERT T. JACOBS  
Regional Forester  
1720 Peachtree Road, NW  
Suite 900  
Atlanta, GA 30367  
Telephone: (404) 347-3464  
(770) 458-2464 (SACC - 24 HRS)

The authority and format of this instrument has been reviewed and approved for signature.

Johnie O. Adams 8/13/04

JOHNIE O. ADAMS  
FS Agreements Coordinator

Date