



# Fact Sheet: Cooperative and Joint Venture Agreements

## Background

In 1998, P.L. 105-391 (Sec. 203) authorized and directed the Secretary of the Interior “to enter into cooperative agreements with colleges and universities, including but not limited to land grant schools, in partnership with other Federal and State agencies, to establish cooperative study units to conduct multi-disciplinary research...”. In response, and under existing cooperative agreement authorities, the Department developed a network of Cooperative Ecosystem Studies Units (CESUs).

Cooperative Ecosystem Studies Units (CESUs) provide research, technical assistance, and education to federal land management, environmental, and research agencies and their partners. Their broad scope includes the biological, physical, social, cultural, and engineering disciplines needed to address natural and cultural resource management issues at multiple scales and in an ecosystem context. The multi-disciplinary structure of CESUs makes them well-suited to address federal agency needs for sustainability science.

On 22 June 1999, participating federal agency directors signed a Memorandum of Understanding (MOU) to establish the CESU Network. The signatory agencies agreed to fully support and expand the CESU Network, within the missions and authorities of the participating agencies. The MOU also established the CESU Network Council as the governing body. Individual CESUs are administered using cooperative and joint venture agreements. These agreements allow each of the participating federal agencies to efficiently transfer funds to university partners while remaining substantially involved in the activities at each CESU.



■ **From anthropology to zoology.** CESU projects cover a range of natural and cultural resource management issues. Above, a biologist measures a black bear paw. (Adam Thomas/NPS)

## Frequently Asked Questions about Cooperative Agreements

### 1. How can multiple agencies be signatories to the same cooperative agreement?

The structure of the CESU cooperative agreements combines separate cooperative agreement language for each federal agency into a single document. For accounting purposes, each agency has its own agreement number. Most importantly, in Article II of each of the CESU cooperative agreements, it is specified that each agency must follow its appropriate laws, regulations, and policy regarding administration of cooperative agreements. When federal funds are moved to a CESU, contracting and financial assistance officers treat the CESU cooperative agreement like any other cooperative agreement their agency has with a university or partner institution. The advantage of having a multi-agency cooperative agreement is the common commitment to the objectives of the CESU, increased efficiency in working with universities, and a greater ability to leverage funds and work cooperatively with other federal agencies.

### 2. Does the federal government contract for services with CESU universities?

No, activities at CESUs are not funded via contracts under federal contracting and procure-



ment law. Rather, CESU activities are funded via cooperative agreements pursuant to the Federal Grant and Cooperative Agreement Act (31 USC 6301 et seq.) and the specific OMB circulars (A-21, A-87, A-102, A-110, A-122, and A-133), agency regulations (e.g., 43 CFR 12 for the Department of the Interior), and agency policies (e.g., D.O. 20 for the National Park Service) that implement this Act. This distinction is important as it applies a different suite of laws and policies to administer federal funds at CESUs. One of the most significant distinctions between cooperative agreements and contracts is that “substantial involvement” of federal agency employees is required under cooperative agreements (31 USC 6305(2)). That is why each CESU has a managers committee made up of representatives from the participating federal agencies to collaborate with its partners in achieving the objectives of the CESU. This affords a greater degree of collaboration between federal scientists and managers with their nonfederal counterparts. For additional information about the differences between contracts and cooperative agreements, refer to 31 USC 6303-6305.

### **3. Why is there mention of a joint-venture agreement?**

Because of U.S. Forest Service policy and cooperative agreement authority, the term joint-venture agreement is included in the CESU agreements where the U.S. Forest Service is a federal agency partner. This applies only to the U.S. Forest Service. Joint-venture agreements are managed similarly to cooperative agreements for the U.S. Forest Service (7 USC 3318(b); USFS Manual Sec. 1580.13 and 1587). For all other agencies the CESU agreements are cooperative agreements and the term joint-venture is not applicable.

### **4. Do CESUs replace competitive contracting?**

No, CESUs are fundamentally different from contracting. Since collaborative activities are funded via a cooperative agreement, federal agency personnel are substantially involved with nonfederal personnel in the activities at a CESU. While competition is not required in the awarding of cooperative agreements, it is encouraged (31 USC 6305(2)). Each CESU was selected only after a broad announcement and competition.

### **5. How were cooperative agreements for CESUs competed?**

The CESU Network Council, which includes representatives from each participating agency, established a formal competition process for selecting the host university for each CESU. The process was approved by the DOI Solicitor’s Office (letter on file). A detailed description of the competition process for awarding CESU cooperative agreements may be found in the document entitled, “Fact Sheet: Selecting and Establishing Cooperative Ecosystem Studies Units.”

### **6. What are the authorities that make it legal for agencies to participate in CESUs?**

Each federal agency has its own authority to enter into cooperative agreements, which is specified in Article I of each CESU cooperative agreement. Copies of the existing cooperative agreements for each CESU are available on the CESU Network website.

### **7. Were the CESU cooperative agreements reviewed by agency solicitors for legal sufficiency?**

Yes, the CESU Network Council sought legal review early in the development of the CESU cooperative agreements with the Department of the Interior Office of the Solicitor, which found that the final version of the CESU cooperative agreements met legal sufficiency and full compliance with the Federal Grant and Cooperate Agreement Act (letter on file). In addition, each participating agency separately reviewed and approved the CESU cooperative agreements through their own internal administrative and legal review processes prior to signing the existing CESU cooperative agreements.

### **8. Does an agency have more flexibility with a CESU cooperative agreement as opposed to another cooperative agreement it has with a university?**

No, each agency must follow its own laws, regulations, and policies regarding cooperative agreements. The CESU cooperative agreements afford no exceptions to this requirement.

### **9. Do the rules of one agency apply to other agencies’ activities with a CESU?**

No, each agency must follow its own laws, regulations, and policies regarding administration of cooperative agreements. However, all participating agencies have agreed to use the single CESU cooperative agreement to achieve the objectives of the CESU.

### **10. Since CESUs are relatively new, there are conceivable situations where policy is needed in the administration of CESUs that are not specifically addressed in an agency’s laws, regulations, and policies regarding administration of cooperative agreements. Is there an additional source for guidance in these situations?**

The CESU Network Council, in conjunction with representatives from agencies with expertise in cooperative agreement management, are developing an administrative guide. This guide will not supersede each agency’s laws, regulations, and policies regarding administration of cooperative agreements, but rather provide supplementary guidance where these sources of policy are silent.

