

USGS LEADERSHIP 201

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ACTION LEARNING SCENARIO # 1

Increasing USGS Partnership Opportunities through Additional Funding Acceptance Authorities

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Issue: If USGS had an opportunity to request additional legal authorities to accept funds, what types of authorities are needed, for what types of programs, and with what types of customers?

Background: Absent explicit statutory authority, Federal agencies are precluded from accepting/retaining funds, other than funds received through their appropriation. Consequently, Federal agencies may not enter into agreements with partners/customers involving the agency performing work and accepting reimbursement/cost share unless the agency has a statutory authority which is related to the proposed work and the type of customer and which permits the agency to accept reimbursement or to share the costs of the work. Similarly, agencies may not sell and retain receipts for product sales without statutory authority.

In performing work for others, USGS utilizes authorities available to: all Federal agencies (e.g., the Economy Act, the Intergovernmental Cooperation Act, the Employee Development Act, etc.); Federal laboratories (through the Stevenson-Wydler Technology Transfer statutes); the Secretary of the Department of the Interior (e.g., via Secretarial Order, USGS may utilize authorities granted to the Secretary and to other bureaus related to biological scientific investigations due to the transfer of the former National Biological Service functions to USGS); and the USGS (e.g., authority to perform cooperative water resources investigations and cartographic mapping with states and municipalities). USGS also utilizes its statutory authorities to sell maps, publications, and related products. In the case of both Interior and USGS statutes, authorities to accept funds/sell products are typically limited to: (a) cited programs/activities/products and (b) specified types of customers. Many of these statutes were enacted decades ago and have not been revised to reference either new or changed programs and/or additional USGS capabilities/products.

When requesting a statutory authority to accept funds, USGS is required to include the request in its annual Budget Justification and receive approval from the Department of the Interior and the Office of Management and Budget before submitting the proposed authority to Congress for consideration and, hopefully, subsequent enactment. The requested authority must be supported by a justification.

USGS experience in requesting additional authorities is mixed. In the past, USGS successfully requested and received authorities to accept gifts; to accept volunteer services; and authority to enter into contracts for the temporary services of students. However, more recently, USGS did not receive approval from the Department of the Interior to request a general authority which would have permitted USGS to enter into cooperative and reimbursable agreements with any type of customer so long as the work performed for the customer related to a program funded

by the USGS appropriation. The stated reason was that Interior did not believe that USGS needed additional authorities to accept funds.

Challenge: Based on review of existing authorities available to USGS to accept funds, determine what additional authorities to enter into agreements and/or sell products and to accept funds would be beneficial to USGS. For each identified authority, prepare the proposed language of the authority and a brief justification for the authority. The justification must clearly address:

- the need for the authority;
- how the authority would benefit the proposed program(s)/customer(s);
- why USGS cannot provide the needed services and pay for the services from its own appropriation;
- why enactment of the authority is in the best interests of USGS, Interior, the Administration, the public, and the nation; and
- why receipt of the authority would not result in USGS being in competition with the private sector.

Resources:

http://internal.usgs.gov/ops/obis/workshop/presentations/Ses3_authoritiespost. Provides listings of authorities USGS can use to accept funds from other bureaus within DOI, from other Federal agencies, from states/local governments, from private entities, as well as authorities USGS has to sell publications and map products.

www.doi.gov/partnerships/partnership_legal_framework.html. Provides legal authorities available to DOI and its bureaus to enter into partnerships. Note: Some of the authorities listed can only be used to send funds out, not to accept funds.

www.gao.gov. Select Legal Products and then select Appropriations Law Manual. Volume V of the Appropriations Law Manual provides an index. Information regarding acceptance of funds through agreements is available throughout the manual (e.g., look up Interagency transactions, Authorities, Economy Act, Private Parties, User Charges, State and Local Governments, Reimbursement, etc.).

http://internal.usgs.gov/director/budget/green_book. Section Q of the 2007 Budget Justification provides a listing of USGS authorizations. Many of these authorizations provide programmatic authority (ability to do the work) as opposed to authority to enter into agreements and to accept funds.

www.uscode.house.gov/search/criteria.shtml Website provides ability to search and retrieve codified Federal laws from the United States Code (USC), through either reference to the precise citation (e.g. 43 USC 50) or through key words.