

COOPERATIVE AGREEMENT MODIFICATION

Agreement/Appendix Title and Number: W912PQ-13-2-1003
Project Name/Description and Location: ARNG Security Cooperative Agreement
Modification Number: P00001

ISSUED BY:

NATIONAL GUARD BUREAU

ISSUED TO:

THE STATE OF NEW YORK

This modification is issued pursuant to the Authorities, 31 U.S.C. Chapter 63; MCA and Appendices Article VII, Sect 703; MCCA Article XII, Sect 1201 of the basic cooperative agreements. Mark purpose and obtain signatures as appropriate IAW NGR 5-1, Chapter 3.

- a. FUNDING
- b. TERMS AND CONDITIONS
- c. TERMINATION
- d. OTHER ADMINISTRATIVE

DESCRIPTION OF MODIFICATION:

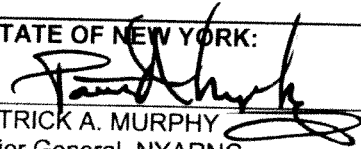
1. This Appendix, W912PQ-12-2-1003, is hereby extended for Fiscal Year 2013. The effective date is 01 October 2012 and the termination date is 30 September 2013.
2. The Appendix number W912PQ-12-2-1003 is changed to read **W912PQ-13-2-1003 for FY 2013**.
3. The Initial Maximum Funding Limitation (MFL-Federal) for this Appendix W912PQ-13-2-1003 for FY 13 is subject to the availability of funds.
4. The initial Estimated Cost (AFP-Federal) for this Appendix W912PQ-13-2-1003 for FY 13 is \$1,621,400.00.
5. In-Kind Assistance is established at \$0.00.
6. As FY2013 budgets are approved by NGB, program managers will add funding to the Appendix by separate modification and are subject to the availability of funds.

EXECUTION

Except as provided herein, all terms and conditions of the Cooperative Agreement and/or Appendix remain unchanged in full force and effect.

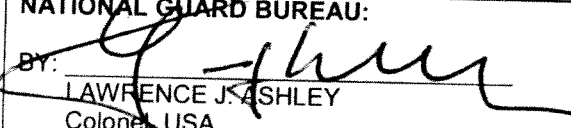
IN WITNESS WHEREOF, the parties by their authorized representatives execute this Cooperative Agreement Modification.

THE STATE OF NEW YORK:

BY: 
PATRICK A. MURPHY
Major General, NYARNG
The Adjutant General

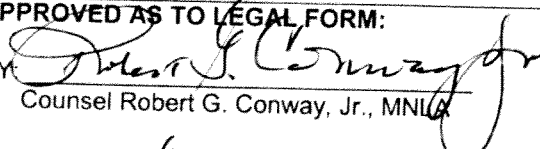
Date: 5 Oct 12

NATIONAL GUARD BUREAU:

BY: 
LAWRENCE J. ASHLEY
Colonel, USA
USPFO for New York

Date: 9 Oct 12

APPROVED AS TO LEGAL FORM:

BY: 
Counsel Robert G. Conway, Jr., MNLA

Date: 26 Sep 2012

APPROVED AS TO LEGAL FORM:

BY: 
Counsel Paul Sausville, COL, JA, NYARNG

Date: 28 Sep 2012

MNFE (37)

24 September 2012

MEMORANDUM FOR MNPF-PC (CW1 Davin)

SUBJECT: Modification of Master Cooperative Funding Agreement (CFA),
W912PQ-13-2-1003, Appendix #3 (Security Guards)

1. Request that a modification be issued to open Appendix #3 of the Master CFA for Fiscal Year 2013 as follows:

Section 306. Funding Limitation is changed as follows:

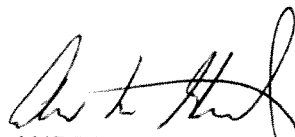
a. Funding.

	(Allotment)	(AFP)
Federal Share (100%)	Max. Funding Limitation \$00.00	Estimated Cost \$1,621,400.00

b. In-Kind Assistance.

Within the Federal Share indicated above \$0.00 is reserved and designated specifically for in-kind assistance through Federal procurement procedures. The use of in-kind assistance shall be at the request of the Adjutant General as approved by the USPFO. NGB-ARI approval is not necessary.

2. The point of contact for this matter is SGM Mike Good, who may be reached at extension 4555.


ANDREW M. STEWART
LTC, LG, NYARNG
CFMO-NY (Program Director)

CF:
MNPF-CO

APPENDIX 3 ARNG SECURITY COOPERATIVE AGREEMENT

Section 301. General.

a. This Appendix to the Master Cooperative Agreement (MCA) prescribes the terms, conditions and administrative procedures related to the National Guard Bureau's (NGB's) federal contribution for the Army National Guard (ARNG) Army Operations Division, Force Protection Branch (NGB-ARO-FP) Security Cooperative Agreement program within the State. This Appendix is also referred to as the Security Cooperative Agreement (SCA).

b. Statement of Facts.

(1) The authorities and provisions set forth in NGR 5-1 are incorporated into this Appendix by reference.

(2) NGB is authorized to contribute federal funds to the State for certain expenses incurred in rendering security guard services. NGB-ARO-FP shall provide 100 percent federal support within funding limitations for authorized SCA personnel. SCA support is authorized for facilities described as joint use of the state and the federal government, and coded for federal support in the Facilities Inventory and Support Plan (FISP). Security Guard services rendered beyond the scope of services authorized in this Appendix will not be supported by federal funds.

(3) At the Adjutant General's (Grantee) discretion and in accordance with State law, the Grantee may require SCA personnel to be armed. The Grantee will bear the full burden to purchase and maintain the weapons and ammunition for state employees; including all training, qualification and licensing cost. If the Grantee contracts for guard services, the contractor, in accordance with state law may be required to furnish weapons, ammunition, training, qualification and licensing. Federal funding provided by NGB will not be used to support the direct or indirect purchase of weapons and ammunition. Additional requirements regarding armed security personnel are addressed in Section 308 of this Appendix.

(4) This Appendix outlines the uses and limitations on, and identifies the maximum amount of, federal funding available for reimbursement of security services incurred by a SMD for compliance with SCA requirements validated by NGB-ARO-FP.

Section 302. Additional Definitions. (Reserved)

Section 303. Office of Primary Responsibility.

a. The Office of Primary Responsibility for this Appendix is the Army National Guard Army Operations Division, Force Protection Branch (NGB-ARO-FP), National Guard Bureau, Army National Guard Readiness Center, 111 S. George Mason Drive, Arlington, Virginia 22204-1382.

b. Chief, Force Protection Branch, for the purposes of this Appendix, is the designee of the Chief, National Guard Bureau, and is the individual authorized to make final approval of all SCA program budgets and modifications to them and to the language of this Appendix, to authorize distribution of SCA funds to the USPFO, to receive specified accounting reconciliation reports, and to take any other action on behalf of NGB, as specifically reserved under this Appendix for NGB-ARO-FP. The SCA Program Manager, NGB-ARO-FP, acts on behalf of the Chief, Force Protection Branch in the daily administration of this Appendix.

Section 304. Scope of Agreement.

a. Scope of Services.

(1) The Grantee shall provide security guard services to ARNG authorized locations.

(2) Control entry to and egress from the location via designated installation/facility access control points (ACP).

(3) Conduct vehicle inspections in support of the installation security program.

(4) Patrol/protect location perimeters and Mission Essential or Vulnerable Areas (MEVA) to detect or deter unauthorized entry.

(5) Monitor Electronic Security Systems (ESS) and devices including Automated Access Control Systems (AACS), Closed Circuit Television (CCTV), Intrusion Detection Systems (IDS) and Security Control Center (SCC) when applicable and initiate appropriate response forces.

(6) Provide other service necessary to secure ARNG resources, and personnel as approved by NGB-ARO-FP.

b. Performance Specifications.

(1) Security Program activities will be performed in accordance with state laws and statutes, Army Regulation 190-56, and the Army National Guard Security Guard Program.

(2) Standards of employment, physical qualifications, physical agility test, training and certification requirements and weapons qualification will be in accordance with Section 308 of the Appendix.

Section 305. Authorized Activities/Charges.

a. Personnel.

(1) Payments for state employee salaries, to include approved overtime, and allowable benefits in accordance with state personnel policy for the payment of salary and benefits of like state government positions within the same geographic area. If a state has a pay raise, pay freeze, or pay cap, a hiring freeze or employee furloughs for like positions throughout the state, then state employees under this appendix will have corresponding limitations. When there is no like state government position available, salaries and benefits will be equivalent to a comparable grade and series Federal Civil Service position in the geographic area.

(2) Costs for job-related training required by this Appendix, except weapons training, for operations in support of the SCA if authorized by NGB-ARO-FP.

(3) Costs for regular overtime that is required by Fair Labor Standards Act (FLSA), based on the work schedule authorized by the SMD, will be allowed and funded in each budget cycle. Scheduled overtime should be avoided. When operational requirements or personnel circumstances dictate additional staffing in support of the mission, NGB-ARO-FP may authorize scheduled overtime to satisfy minimum staffing requirements.

b. Equipment/Supplies/Uniforms.

(1) Operational supplies used exclusively in direct support of the SCA.

(2) Government equipment may be provided for SMD use as Government Furnished Equipment (GFE) and/or Vehicles IAW Chapter 7, NGR 5-1. The absence of GFE and/or Vehicles does not relieve the SMD from its primary responsibility for performance of the terms and conditions outlined in this Appendix.

(3) Costs for standard security guard uniforms and for Personal Protective Equipment (PPE), duty gear, and other job related equipment that will assist or is required by the State for SCA personnel to perform their duties.

(4) In-Kind Assistance using federal contracts to hire security guards for state owned, state licensed or state leased property may be authorized.

Section 306. Unauthorized Activities/Charges.

a. All activities/charges not authorized in Section 305 or expressly approved in writing by NGB-ARO-FP as an exception are unauthorized.

b. Costs associated with the purchase of weapons and ammunition for state civil service employees or state contracted employees are unauthorized.

c. Issuing federally-owned weapons and ammunition to State civil service employees or State contracted employees is unauthorized.

d. Carrying of privately-owned firearms and/or ammunition by state civil service employees or state contracted employees is strictly prohibited.

e. Federal reimbursement of firearms purchased by the SCA employee and of firearms purchased with Grantee funds as part of a uniform allowance when the firearm is for the sole use and control of the employee on and off duty is unauthorized.

f. Reimbursement for courses, whether accredited or non-accredited and professional training not specifically required for performance of position duties covered under this agreement.

Section 307. Budget Requirements.

a. Limitations.

(1) The CA PM will submit a budget request each fiscal year for the SCA program as directed by NGB-ARO-FP for approval. The budget request will list the number of Security Guard positions per installation/facility, and cost for each position including uniforms, equipment, salaries and benefits for which the Grantee expects federal reimbursement. A copy of the state contract and/or employee payroll, including administrative, supplies, and equipment expenses must be submitted with the budget request. Also, an annual traffic study is required to justify the total positions authorized for each installation access control point (IACP), and an installation/facility risk assessment and physical security survey is required to justify security patrol positions.

(2) The annual budget shall be approved before the execution of this Appendix. The annual funding guidance (AFG) will include the number of authorized personnel for each installation/facility, the total amount of the budget, and initial annual funding plan.

(3) The total amount of the budget shall be the maximum amount for which NGB is obligated to reimburse the Grantee for the costs of performance of this Appendix. The state CA PM must submit a request to NGB-ARO-FP to increase or decrease the budget amount in accordance with paragraph d, below.

(4) Though the SCA is intended to be 100% federally funded, federal resources for reimbursement of state salaries and benefits are limited. NGB-ARO-FP maintains a salary and benefit standard. Federal funding for salaries and benefits will be limited to this amount. Grantees should coordinate with the CA PM in establishing salary and benefit levels to ensure that funding will be available. Other funding sources can supplement the federal SCA funding, but must be tracked and recorded in the same manner.

(5) NGB-ARO-FP may unilaterally increase or decrease the budget total.

b. AMSCOs: The Grantee shall use the AMSCOs, as provided to the state by the CA PM, in accounting for charges to this Appendix. AMSCOs in the NGB-ARO-FP approved budget are the only authorized AMSCOs for use.

c. The Grantee and the CA PM must reconcile quarterly. Upon the request of NGB-ARO-FP, the Grantee shall provide a report of the total salary and benefits, uniform and equipment cost expended for each security guard.

d. Budget Changes. The state CA PM must submit a written request through the Grants Officer/USPFO, to decrease or increase funds in its Budget. The request shall include an updated budget reconciliation report as an enclosure. The request shall not be binding unless it is so approved by NGB-ARO-FP. The request and approval shall not be binding unless a CA modification to this appendix has been executed.

Section 308. Appendix Administration.

a. Standards for Employment. Each state will establish qualification standards for employment as a security guard in accordance with this Appendix, Army Regulation 190-56, and all state and local laws and statutes. SCA employees must have a high school diploma or equivalent (GED) and must be a minimum of 18 years of age. Basic character traits of honesty, courtesy, tact, cooperation, personal appearance, and bearing are important factors required of security personnel. Personal qualities of good conduct and character, integrity, dependability, and good mental and physical fitness also are required of such personnel.

(1) All SCA personnel must meet the medical screening requirements of like/similar state security positions as identified in state personnel regulation directives. In the absence of state regulatory standards, Army Regulation 190-56 standards will apply.

(2) All SCA personnel must sign a Workforce Drug Testing Act per state laws and statutes. In the absence of state regulatory standards employees must sign a DA Form 5019 (Condition of Employment for Certain Civilian Positions Identified Critical under the Department of the Army Drug-Free Federal Workplace Program) and pass a drug test per AR 600-85. All SCA personnel will participate in periodic drug testing per state laws or AR 600-85 on a random basis to ensure the deterrent value of the testing program.

(3) All SCA personnel must obtain a favorable National Agency Check (NAC). Individuals convicted of domestic violence are not eligible for hire or retention as SCA employees. Personnel to be employed as armed guards shall have a specific inquiry into the applicant's suitability as per the Lautenberg Amendment to the Gun Control Act of 1968. The inquiry will be made part of the pre-employment screening for probationary individuals who are tentatively selected. Upon notification of conviction, individual(s) will be disarmed. Other convictions will be addressed on an individual basis.

(4) State Driver's License: All SCA personnel performing security guard duties are required to possess and maintain a current state driver's license to operate assigned security vehicles if applicable.

(5) Physical Agility Standards. The Adjutant General will establish initial hire and annual physical agility certification requirements that measure the individual's ability to accomplish the essential functions of the position for which hired. The Physical Agility Test (PAT) will include performance-based standards that measure the individual's preparedness to successfully accomplish physically demanding tasks. Accepted standards will include anaerobic/aerobic endurance, agility, and strength. These standards should be based on state requirements for similar positions and AR 190-56. Tests will be conducted annually with a minimum of four months separating each PAT. Job descriptions and performance plans/standards will contain the PAT requirement.

b. Weapons and Ammunition and Security. A pre-employment screening per the Lautenberg Amendment to the Gun Control Act of 1968 will be made for all armed security personnel. Weapons training, with qualification, will be conducted semi-annually. Weapons training and qualification will follow recognized federal, state or local law enforcement agency's (for example the International Association of Chiefs of Police or state police academies) qualification/familiarization standards for the type of weapon required for armed security. Records of individual qualification results must be documented.

(1) Federally-owned weapons and ammunition shall not be issued to state civil service employees or state contracted employees.

(2) The use of privately-owned firearms and or ammunition by state civil service employees or state contracted employees is strictly prohibited.

(3) Storage and accountability of weapons and ammunition on ARNG installations or facilities will be in accordance with AR 190-11.

c. Use of Force and Rules of Engagement. The Adjutant General, in conjunction with the Staff Judge Advocate will determine and identify specific Use of Force and Rules of Engagement for security guard operations based on state and local laws and statutes. SCA personnel performing security guard duties will be armed as deemed appropriate by the Adjutant General for the performance of their duties.

d. Initial and Annual in-service training will be conducted at each installation/activity to ensure proficiency in guard skills and remain current in state and federal doctrine. The Adjutant General may establish specific local training programs, in addition to the annual requirements, to identify and address local security issues (such as specific priorities, unique physical security issues, and so forth). All SCA personnel shall receive initial training based on state and local laws and statutes, and Army Regulations prior to assignment of duties, to include as a minimum:

(1) Use of Force/Rules of Engagement in accordance with state and local laws and statutes, and AR 190-14.

(2) Legal authority and jurisdiction including potential conflicts of interest and Posse Comitatus Act issues. SCA personnel while wearing the duty uniform and/or badge, may not be deputized or exercise any additional authority and jurisdiction while on duty under this Appendix.

(3) Vehicle, Area, and Personnel Search Authority and Procedures.

(4) Personnel Identification procedures, including authorized identification cards/badges.

(5) Communication procedures and equipment.

(6) Antiterrorism and Operations Security requirements.

(7) Protective Equipment and procedures to include blood borne pathogens training.

- (8) Specialized access control and screening equipment.
- (9) Task certification (for specific job for which hired).

e. SCA Authorizations. The Grantee will provide security needs for each of its installations/facilities/locations based on regulatory requirements and NGB guidance. NGB-ARO-FP provides an intended number of personnel or authorizations for each approved installation/facility/location. These authorizations establish the federal funding limit for each installation/facility/location supported by the SCA program. A state may have more employees than authorizations, but federal funding will be limited to the number of authorizations based on NGB-ARO-FP funding limit. NGB-ARO-FP and the CA PM must concur with the additional positions, and clearly articulate in writing the funding source for those additional positions.

f. The CA PM serves as technical supervisor for the ARNG Security at the state level. The Senior Security Guard will conduct the day to day supervision at each installation/facility/location in coordination with the command Physical Security Officer. The CA PM in coordination with NGB-ARO-FP will assess and determine which SCA authorized positions are to be filled. The CA PM will be consulted on all personnel actions concerning SCA employees to include hiring, firing, personnel evaluations, disciplinary actions and other performance related issues. The CA PM will monitor hiring actions to ensure compliance with qualification standards.

g. Uniforms. All SCA personnel are required to wear a uniform while performing security guard duties to ensure ready identification and as an emblem of authority.

(1) The Adjutant General will approve the design, material and color of the uniform in accordance with state laws and statutes, OSHA guidelines, and Army Regulation 190-56.

(2) SCA employees in State Active Duty status for the State Military Department, employees may wear the military service related uniform in accordance with Army Regulation 670-1, Chapter 30-8, Section c.

h. Unit Exercises, Inspections and Assessments: SCA personnel will support organizational exercises, inspections and assessments, performing duties and services defined within this Appendix.

i. SCA employees hired under a state contract are required to maintain and comply with all standards and requirements of Section 308 of this Appendix. The state contract should contain special provisions of the periodic review of contract SCA employee records and the requirement for the Grantor to monitor the administration of Physical Security Testing.

j. Changes to the terms and condition of this Appendix shall be IAW NGR 5-1, Chapter 3.

Section 309. Funding Limitations.

a. Approved Budget/Annual Funding Program (AFP): The total dollar amount that NGB anticipates, subject to the availability of funds, being available for reimbursement to the Grantee for its costs in fulfilling its responsibilities under this Appendix. This amount may be increased or decreased by NGB during the fiscal year.

b. Total Dollars Obligated: The total amount of funds obligated for NGB's share under this Appendix. Only funds obligated through an executed CA modification to this Appendix are available for reimbursement to the Grantee. Funds shall be obligated as received by the CA PM.

1. Fiscal Year 2010:	Approved Budget (AFP) \$1,175,400.00	Total Dollars Obligated \$1,175,400.00 IKA: \$645,147.06
2. Fiscal Year 2011:	Approved Budget (AFP) \$1,256,400.00	Total Dollars Obligated \$1,256,400.00 IKA: \$1,023,400.00
3. Fiscal Year 2012:	Approved Budget (AFP) \$ 2,266,70000.00 IKA: \$900,000.00	Total Dollars Obligated \$ 2,266,700.00
4. Fiscal Year 2013:	Approved Budget (AFP) \$990,800.00	Total Dollars Obligated \$ _____
5. Fiscal Year _____:	Approved Budget (AFP) \$ _____	Total Dollars Obligated \$ _____

August 2009

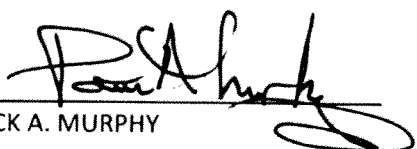
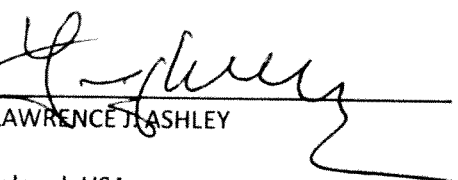
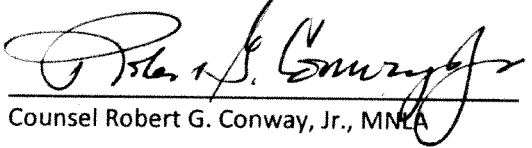
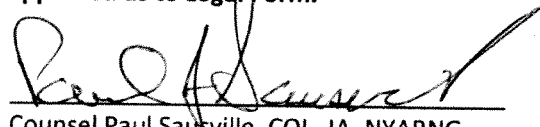
Section 310. Agreement Particulars.

The information below shall be recorded by the Grants Officer's Representative (GOR) for compliance with the reporting requirements of the DoD Assistance Award Action Report System (DAADS) and the Federal Funding Accountability and Transparency Act of 2006.

a. Grantee/Recipient Category:	Government
b. Grantee/Recipient Type:	State Government
c. Grantee/Recipient DUNS:	044776024
d. Primary Place of Performance (if different from 'Issued To' on CA Modification Form):	New York, 12110-3514
(To include Zip + 4)	
e. Grantee/Recipient County (Primary Place of Performance):	36
f. Grantee/Recipient Congressional District (Primary Place of Performance):	Albany
g. Major Agency:	DOD
h. Agency Code:	2100
i. Funding Agency:	Army
j. Program Source Agency:	21
k. Transaction Type:	Cooperative Agreement
l. CFDA:	12.401
m. CFDA Program Title:	Operation and Maintenance, Army National Guard
n. Program Source Account-Funding:	2065
o. Treasury Appropriation Code:	2065
p. Award/Obligation/Action Date:	1 Oct 2012
q. Starting Date:	1 Oct 2012
r. Ending Date:	30 Sep 2013
s. Record Type:	Individual Action
t. Fiscal Year/Quarter:	2013/1 st Qtr

EXECUTION

IN WITNESS WHEREOF: The parties, by their signatures, execute this Appendix and agree to its terms and conditions.

<p>STATE OF NEW YORK:</p> <p>BY: <u></u> PATRICK A. MURPHY</p> <p>Major General, NYARNG The Adjutant General</p> <p><u>5 Oct 12</u> (Date)</p>	<p>NATIONAL GUARD BUREAU:</p> <p>BY: <u></u> LAWRENCE J. ASHLEY</p> <p>Colonel, USA USP&FO for New York</p> <p><u>9 Oct 12</u> (Date)</p>
<p>Approved as Legal Form:</p> <p><u></u> Counsel Robert G. Conway, Jr., MNLA</p> <p><u>26 Sep 2012</u> (Date)</p>	<p>Approved as to Legal Form:</p> <p><u></u> Counsel Paul Sausville, COL, JA, NYARNG</p> <p><u>28 Sep 2012</u> (Date)</p>