

§ 601.6

1 CFR Ch. VI (1–1–23 Edition)

(ii) There are significant new circumstances or information that are relevant to environmental concerns and have a bearing on the proposed action or its impacts.

(14) Consult with NCPC on the outcome of the re-evaluation of its Environmental Document; provided that if NCPC disagrees with the Lead Agency's conclusion on the need to update its Environmental Document, NCPC may, at its sole discretion, either prepare its own Environmental Document or decline to consider the application.

(b) When NCPC serves as Lead Agency in accordance with § 601.4(b), in addition to the obligations listed in paragraphs (a)(1) through (14) of this section, NCPC shall:

(1) Require Non-Federal Agency applicants other than the District of Columbia and the Maryland National Capital Parks and Planning Commission to enter into a MOA with NCPC. In the MOA, and in subsequent implementation thereof, the Non-Federal Agency shall commit to providing all necessary assistance to facilitate and ensure NCPC's compliance with its NEPA obligation.

(2) The MOA may be prepared as a programmatic MOA that addresses a uniform approach for the treatment of all applications from a particular Non-Federal Agency applicant or address a specific Non-Federal Agency application. The request to enter into a project specific MOA shall be made after a determination is made as to the inability to utilize a CATEX.

(3) A MOA with a Non-Federal Agency shall specify, without limitation, roles and responsibilities; project information necessary to prepare the proper Environmental Document; project timelines and submission schedules; the submission of periodic reports on implementation of Mitigation measures, principal contacts and contact information; and a mechanism for resolving disputes.

(4) Upon adoption of the MOA, NCPC shall publish the MOA in the FEDERAL REGISTER and post it on NCPC's Web site.

§ 601.6 Resolving disputes over Lead Agency status.

(a) In the event of a dispute with a Federal Agency applicant over Co-Lead Agency status, the parties shall use their best efforts to cooperatively resolve disputes at the working levels of their respective agencies and, if necessary, by elevating such disputes within their respective agencies.

(b) If internal resolution at higher agency levels proves unsuccessful, at NCPC's sole discretion, one of the following actions shall be pursued: The parties shall request CEQ's determination on which agency shall serve as Lead, or NCPC shall prepare its own Environmental Document, or NCPC shall decline to take action on the underlying application.

(c) Disputes other than those relating to the designation of Lead Agency status or Cooperating Agency status as described in § 601.7(b), shall be governed by the requirements of subpart G of this part.

§ 601.7 Cooperating Agencies.

(a) When a Federal Agency applicant serves as the Lead Agency, NCPC shall act as a Cooperating Agency. As a Cooperating Agency, NCPC shall, without limitation, undertake the following:

(1) Act as a Cooperating Agency as described in 40 CFR 1501.6.

(2) Assist in the preparation of and sign a MOA with terms agreeable to NCPC if requested by the Lead Agency. At the Lead Agency's discretion, the MOA may be prepared as a programmatic MOA that addresses a uniform approach for the treatment of all applications where NCPC serves as a Cooperating Agency or address a specific application. The request to enter into a project specific MOA shall be made after a determination is made by the Lead Agency on the inability to utilize a CATEX.

(3) Participate in the NEPA process by providing comprehensive, timely reviews of and comments on key NEPA materials including, without limitation, Public Scoping notices; technical reports; documents (including responses to comments received from the public); the draft and final EA or EIS; and the Draft FONSI or ROD.