



MEMORANDUM OF AGREEMENT BETWEEN
NAVY REGION MID-ATLANTIC RESERVE COMPONENT COMMAND NORFOLK
AND
THE NEW YORK NAVAL MILITIA

Subj: RELATIONSHIP, COLLABORATION AND POTENTIAL SUPPORT BETWEEN
NAVY OPERATIONAL SUPPORT CENTERS ASSIGNED TO RMARCC NORFOLK
AND THE NEW YORK NAVAL MILITIA

Ref: (a) 10 U.S.C. §2012
(b) 10 U.S.C. §2679
(c) DoD 7000.14-R, Department of Defense Financial Management Regulation
(d) DoD Directive 1100.20, "Support and Services for Eligible Organizations and
Activities Outside the Department of Defense," April 12, 2004
(e) DoD Instruction 4001.19, "Support Agreements," April 25, 2013
(f) through (v), see enclosure (1)

This is a Memorandum of Agreement (MOA) between Navy Region Mid-Atlantic Reserve Component Command Norfolk (RMARCC Norfolk) and the New York Naval Militia (NYNM). When referred to collectively, RMARCC Norfolk and the NYNM are identified as the "Parties."

1. PURPOSE: The purpose of this MOA is (a) to outline the statutory and regulatory framework and other administrative guidance for training, recruitment and information-sharing opportunities between specific functional components of the United States Navy Reserve and the NYNM; (b) to detail the collaborative relationship between specific Navy Operational Support Centers (NOSCs), under the cognizance of RMARCC Norfolk, and the NYNM; (c) to enhance mission effectiveness; and (d) to create economies of scale by sharing, providing or receiving various support services and assets.

2. PARTIES, AUTHORITIES AND BACKGROUND: Pursuant to references (a) – (m), the Parties are authorized to enter into this MOA.

2.1. RMARCC Norfolk. RMARCC Norfolk provides assistance, guidance and administrative oversight of twenty-five (25) NOSCs in twelve (12) states with more than 700 Full Time Support active duty members and civilian personnel who support a drilling population of more than 12,500 Selected Reserve (SELRES) persons. Six (6) of the twelve (12) NOSCs, under the cognizance of RMARCC Norfolk, are geographically situated in the State of New York (herein

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collectively referred to as the “New York State NOSCs”). RMARCC Norfolk carries out programs, as directed by Commander, Naval Reserve Force, and RMARCC Norfolk primarily focuses upon maximizing readiness in the event of a mobilization in order to provide trained and capable naval reservists for integration into the United States Navy active forces.

2.2. NYNM. The mission of the NYNM is to provide a trained naval force to support state emergency responses, state homeland security and other administrative/training missions as may be assigned by the NY State Governor to the forces of the Organized Militia of the State of New York.

2.3. Statutory, Regulatory and Administrative Authorities. Various statutory and regulatory provisions contemplate that the Department of the Navy (DON) and the NYNM will establish and maintain a relationship related to the training of naval personnel to promote mission readiness and to satisfy various needs for a capable maritime force.

2.3.1. Department of Defense (DoD) Support and Services for State Governmental Entities. In accordance with references (a), (b) and (d), under certain conditions and limitations, the DoD, and the military departments, may provide support and services to State governmental organizations if such assistance is (a) authorized by law; or (b) incidental to military training.

2.3.2. DON Authorized to Provide Resources under Limited Conditions. As detailed in reference (j), assets and materials of the DON, which are available to the Navy Reserve and Marine Corps Reserve, may be made available for loan or issue to any State for use by that State’s naval militia as long as (a) ninety-five percent (95%) of the members of the naval militia organization, using such resources, are members of the Navy Reserve or the Marine Corps Reserve; and (b) the organization, administration and training of the State naval militia conform to DON standards.

2.3.3. Composition of the NYNM. In accordance with reference (k), under New York law, ninety-five percent (95%) of the NYNM force must be personnel of the Navy Reserve, Marine Corps Reserve and/or the Coast Guard Reserve [i.e., Selected Reserve, Individual Ready Reserve, Standby Reserve Inactive and Retired Reserve].

2.3.4. Acquisition and Maintenance of Militia Assets and Support of Federal Components. Under references (l) and (m), the State of New York is authorized to procure, to maintain and to use various assets, resources and facilities in support of the units of the organized Navy Reserve and the organized Marine Corps Reserve which are allotted to the State of New York.

2.4. NYNM Organizational Framework, the Relationship between the Navy Reserve and the NYNM and Satisfactory Membership Status within the NYNM. Based upon its organizational structure and administrative policies, the NYNM seeks to foster and to cultivate a relationship with components of the Navy Reserve through training, communication and adoption of standards for military members of the Federal service components.

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2.4.1. In accordance with reference (k), the Commander of the NYNM shall maintain liaison with the United States Navy and, in particular, components of the Navy Reserve.

2.4.2. Under reference (p), the NYNM expressly identifies the New York State NOSC's which are located in the NYNM administrative chain of command. Specifically, pursuant to reference (p), NOSC New York City and NOSC Long Island (Farmingdale) are located in the NYNM Southern Command, NOSC Schenectady is included with the NYNM Northern Command and NOSC Buffalo, NOSC Rochester and NOSC Syracuse are part of the NYNM Western Command.

2.4.3. Reference (p) also indicates that the NYNM authorities shall designate a Naval Militia Liaison or representative for each NOSC, and that liaison accounts for NYNM members assigned to a particular reserve unit or NOSC, records drill participation and manages various personnel actions impacting the NYNM.

2.4.4. Consistent with references (j), (l) and (p) – (q), the NYNM is organized and trained as prescribed by federal law, and the NYNM abides by participation and performance standards and various training requirements and administrative processes of the Navy Reserve. More specifically, under reference (p), Selected Reserve (SELRES) and Voluntary Training Unit (VTU) personnel, who satisfactorily meet participation and medical requirements of the Navy Reserve, fulfill membership standards of the NYNM and are not required to perform any other drills with the NYNM.

2.4.5. Pursuant to reference (l), as of 15 October 2010, all members of the NYNM must be either residents of New York State or must be drilling SELRES or VTU personnel with the Navy Reserve, U.S. Marine Corps Reserve, or U.S. Coast Guard Reserve whose primary drilling location is within New York State. Furthermore, any non-drilling personnel, who change legal residence to a non-New York State location, are no longer eligible for membership in the NYNM.

2.4.6. Reference (p) provides that NYNM members, who meet participation requirements as SELRES or VTU personnel with the Navy Reserve, are eligible for various education benefits, awards and other incentives from the State of New York.

3. RESPONSIBILITIES OF THE PARTIES:

3.1. RMARCC Norfolk will:

3.1.1. Permit, pursuant to the requirements set forth in references (f) and (h), NYNM representatives to distribute recruiting and promotional materials and to provide informational training sessions, concerning the operation, administration and management of the NYNM, at the NOSC's within the cognizance of RMARCC Norfolk, to mem-

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bers of the Navy Reserve assigned to those specific NOSC. Any NYNM training sessions and distribution of literature shall not, however, interfere with the ability of NOSC to fulfill the military mission and to meet readiness requirements of the Navy Reserve.

3.1.3.1. Notwithstanding any other provision in this MOA, ninety (90) calendar days before any support or services are provided, (1) the applicable NOSC commanding officer and the Commander of the NYNM must certify, in writing to RMARCC Norfolk, that at least ninety-five percent (95%) of the personnel receiving and benefiting from such services and support are SELRES or VTU Navy Reserve members.

3.1.3.2. Before agreeing to offer any support or services, the NOSC commanding officer must indicate, in writing to RMARCC Norfolk, that extending such support and services is incidental to Navy Reserve training requirements, accomplishes valid military training and does not interfere with the mission of the NOSC and the Navy Reserve.

3.1.3.3. At least ninety (90) calendar days, before any support or services are extended, the cognizant NOSC commanding officer shall seek review and approval from RMARCC Norfolk authorities to ensure compliance with federal statutes, DoD and naval issuances and principles of fiscal law before providing any Navy Reserve support or services to the NYNM.

3.1.2. Agree, consistent with references (a) – (b), (d) – (e), (g) and (j), that SELRES and VTU personnel of the Navy Reserve, who meet satisfactory participation requirements, may be members of the NYNM so long as participation in the NYNM does not interfere or impede with the ability of those personnel to meet requirements of the Navy Reserve and to completely fulfill duties and orders of the Navy Reserve. Should duties and responsibilities of personnel be in conflict, between the Navy Reserve and the NYNM, then fulfillment of Navy Reserve obligations shall always take priority.

3.1.3. Provide support and services to the NYNM from the New York State NOSC, in accordance with references (a), (d) and (j), only to the extent that such support (1) is incidental to Navy Reserve general training requirements; (2) accomplishes valid military training; and (3) involves tasks related to the specific training requirements, ratings, designators and qualifications of Navy Reserve personnel; or (4) assists NYNM personnel responding to emergencies and disasters for State Active Duty and does not interfere or impede with the NOSC ability to fulfill the military mission and to meet readiness requirements of the Navy Reserve .

3.1.4. Direct the NOSC under its cognizance that have NYNM personnel drilling to coordinate with the Naval Militia Liaison to identify Navy Reserve training requirements and to provide information demonstrating satisfactory participation of personnel in

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the SELRES and VTU who are assigned to NOSC's under its cognizance and also members of the NYNM, provided that such Navy Reserve personnel consent to disclosure of such individual training information pursuant to references (r) and (s).

3.1.5. Disclose to the NYNM any after-action reports, summaries, reviews or investigations, as prepared or directed by RMARCC Norfolk or the applicable NOSC, pertaining to training opportunities and the potential support contemplated under this MOA, to the extent permitted under federal statute, regulations and DoD and naval issuances.

3.2. The NYNM will:

3.2.1. Identify certain NYNM training opportunities and provide the use of NYNM equipment and related resources during such training evolutions to the New York State NOSC's and Navy Reserve personnel assigned to those NOSC's, in accordance with references (k) – (m) and (p) – (q), provided that the NYNM expressly offers use of such assets and extends such support without expectation of payment and waives any future pay claims against the Federal government, including, but not limited to, the Department of the Navy, the Navy Reserve and various organizational components.

3.2.1.1. Notwithstanding any other provision in this MOA, ninety (90) calendar days before any support or services are provided by the NYNM, the applicable NOSC commanding officer and the Commander of the NYNM must certify, in writing to RMARCC Norfolk, that ninety-five percent (95%) of those anticipated to participate in such NYNM training opportunities are SELRES or VTU members of the Navy Reserve.

3.2.1.2. At least ninety (90) calendar days, before any support or services are extended, the cognizant NOSC commanding officer must certify, in writing, that Navy Reserve participation in such NYNM training opportunities (1) does not interfere with the NOSC's missions and readiness; (2) supports Navy Reserve general training requirements; and (3) involves tasks related to the specific training requirements, ratings, designators and qualifications of Navy Reserve personnel.

3.2.1.3. The NOSC commanding officer and the commander of the NYNM must indicate, in writing to RMARCC Norfolk, at least ninety (90) calendar days before any scheduled evolution, the training plan, specific execution of such a plan, delineation of the chain of command and the role which Navy Reserve personnel will fulfill in the training.

3.2.1.4 The Commander of the NYNM, to the extent permitted by New York State law, before providing the use of NYNM assets, equipment and resources to the Navy Reserve and its personnel, shall certify, in writing to RMARCC Norfolk, that the

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NYNM and the State of New York are providing such services and support to the Department of the Navy on a gratuitous basis and that the NYNM and the State of New York expressly waive any future pay claims against the Federal government.

3.2.2. Ensure that personnel of the Navy Reserve, when exclusively supporting the NYNM and operations of the State of New York, understand that those personnel may not receive pay, entitlements and allowances from the Department of the Navy and are not eligible to receive various benefits, under federal law, for exclusive service in support of the NYNM, consistent with reference (o).

3.2.4. Provide information, in accordance with references (p) and (t), to RMARCC Norfolk and/or the cognizant NOSC regarding satisfactory completion of specific training obtained from the NYNM, and membership status in the NYNM. In addition, when Navy Reserve members are performing training with the NYNM in a Navy Reserve inactive-duty training period, NYNM will provide the cognizant NOSC with participation records and information concerning any misconduct.

3.2.5. Assist and liaison with applicable NOSC staff, consistent with reference (n), and based upon availability of resources, in locating and in notifying members of the NYNM who are identified to perform active military duty in support of the Navy Reserve.

3.2.6. Share and disclose to RMARCC Norfolk and the relevant NOSCs any after-action reports, summaries, reviews or investigations, as prepared or directed by the NYNM and the State of New York, pertaining to the training opportunities and potential support contemplated under this MOA, to the extent permitted under the laws of the State of New York and reference (l).

4. PERSONNEL: Each party to this MOA is responsible for all costs of its own personnel, including pay and benefits, support and travel. Likewise, unless set forth otherwise in this MOA, each party is responsible for the supervision and management of its personnel. Each party shall take appropriate measures to ensure that there is a clear distinction regarding the performance of duties and satisfaction of obligations between those personnel participating in their capacity as SELRES or VTU members with the Navy Reserve and those participants acting on behalf of the NYNM.

5. GENERAL PROVISIONS:

5.1. Points of Contact. The following points of contact (POC) will be used by the Parties to communicate in the implementation and execution of this MOA. Each party may change its points of contact upon reasonable notice to the other party.

5.1.1. For RMARCC Norfolk:

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5.1.1.1. Primary POC: Commander, Navy Region Mid-Atlantic, Reserve
Component Command Norfolk. Office: (757) 341-5880.

5.1.1.2. Secondary POC: Assistant Staff Judge Advocate, Navy Region
Mid-Atlantic, Reserve Command Norfolk. Office: (757) 341-5893.

5.1.2. For the NYNM:

5.1.2.1. Primary POC: Chief of Staff, New York Naval Militia, Division
of Military and Naval Affairs. Office: (518) 786-4584; and

5.1.2.2. Secondary POC: Force Judge Advocate, New York Naval Militia,
Division of Military and Reserve Affairs. Office: (585) 613-4052.

5.2. Correspondence. All correspondence to be sent and notices to be given pursuant to
this MOA will be addressed to the following:

5.2.1. If to RMARCC Norfolk:

Navy Region Mid-Atlantic Reserve Component Command Norfolk
Attn: Commander, Navy Region Mid-Atlantic Reserve Component Command Norfolk
521 Park Crescent
Norfolk, VA 23511-4016.

5.2.2. If to the NYNM:

Division of Military and Naval Affairs
Attn: Naval Militia Chief of Staff (MNNM)
330 Old Niskayuna Road
Latham, NY 12110-3514.

Upon notification to the other party, from time to time, each Party may modify the applicable
points of contact to receive notices and correspondence.

5.3. Review of Agreement. In general, this MOA will be reviewed annually, on or
around the anniversary of its effective date, for financial impacts and triennially in its entirety.
Moreover, pursuant to references (c), (e), (g) and (i), this MOA may be reviewed whenever mat-
ters material to this MOA change or budgetary conditions materially impact the resource require-
ments contemplated under the MOA.

5.4. Modification of Agreement. This MOA may only be modified by the written agree-
ment of the Parties, duly signed by their authorized representatives.

5.5. Disputes. Any disputes relating to this MOA will, subject to any applicable law, Ex-
ecutive Order, Directive, or Instruction, be resolved by consultation between the Parties. If the

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Parties cannot bilaterally resolve a dispute, then each party to this MOA will present the dispute to senior authorities, within the cognizant chain of command, for further negotiation, mediation and resolution.

5.6. Termination of Agreement. This MOA may be terminated by either party by giving at least 180 days written notice to the other party. The MOA may also be terminated at any time upon the mutual written consent of the Parties.

5.7. Transferability. This Agreement is not transferable except with the written consent of the Parties.

5.8. Entire Agreement. It is expressly understood and agreed that this MOA embodies the entire agreement between the Parties regarding the MOA's subject matter.

5.9. Effective Date. This MOA takes effect beginning on the day after the last Party signs. Any modifications to this MOA take effect beginning on the day after the last Party signs.

5.10. Expiration Date. This MOA expires on Monday, 31 August 2028, consistent with the nine-year limitation set forth in reference (e), unless the MOA is otherwise cancelled or superseded in accordance with other provisions set forth in this MOA.

5.11. Cancellation of Previous Memorandum of Understanding. This MOA and any modifications supersede the Memorandum of Understanding between the United States Navy and the NYNM executed on Monday, 13 May 1996, and the subsequent MOA between RMARCC Norfolk and the NYNM signed on 24 and 29 August 2017.

6. FINANCIAL DETAILS: Other than as may be described above, this MOA does not generally require fiscal reimbursement on the part of either party. Under the references cited herein, the Parties have expressly determined that any support and services may be provided on a non-reimbursable basis because (1) the Department of the Navy and personnel of the Navy Reserve are benefitting directly from the support, services and training contemplated; and (2) any extension of services and support will have a negligible impact upon Department of the Navy appropriations under the circumstances described herein. If competent authority determines that any obligation or required action in this MOA violates references (u) and (v), comprising the Anti-Deficiency Act, then such requirement shall be null and void, but the remainder of this MOA shall continue in full force and effect.

7. CLAIMS AND LIABILITIES: Each party to this MOA shall agree to promptly consider and to adjudicate any and all claims that may arise out of this MOA resulting from the actions of the Federal Government or the State of New York, their duly authorized representatives, or contractors of the Federal Government or the State of New York, and to pay judgments of courts of competent jurisdiction for claims for damage or injury as may be required under Federal law or the laws of the State of New York.

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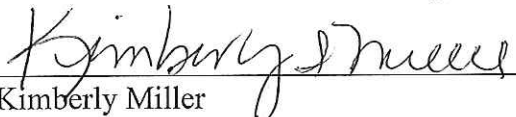
7.1. Claims against the Federal Government. For any all claims against the Department of the Navy, such adjudication will be pursued under the Federal Tort Claims Act, 28 U.S.C. §2671 *et seq.*, the Federal Employees Compensation Act, 5 U.S.C. §8101 *et seq.*, or such other Federal legal authority as may be pertinent.

7.2. Claims against the State of New York. Any and all claims against the State of New York shall be processed and adjudicated pursuant to applicable law, available remedies and governing procedures.

IN WITNESS WHEREOF, the Parties, through duly authorized representatives identified below, hereby sign and execute this Memorandum of Agreement.

AGREED:


For **RMARCC NORFOLK**:



Kimberly Miller
Commander, RMARCC Norfolk
Captain, U.S. Navy

Date: 16 September 2019

For **NYNM**:



Timothy G. Zakriski
Commander, NYNM
Rear Admiral (LH), N. Y. Naval Militia

Date: 12 September 2019

Enclosure 1

REFERENCES, continued

- (f) DoD Instruction 1000.15, "Procedures and Support for Non-Federal Entities Authorized to Operate on DoD Installations," October 24, 2008
- (g) OPNAVINST 4000.84C, "Support Agreements," 31 May 2012
- (h) CNICINST 11000.1A, "Non-Federal Entities on Board Navy Installations," 5 Jun 18
- (i) NAVSO P-1000, DON Financial Management Policy Manual, December 2015
- (j) 10 U.S.C. §7854
- (k) N.Y. Military Law § 43
- (l) DMNA Regulation Number 10-1, "New York Naval Militia Regulations," 15 October 2010
- (m) N.Y. Military Law §47
- (n) 31 U.S.C. §1301(a)
- (o) 32 U.S.C. §109(d)
- (p) NYNMINST 5725.1, "Reserve Activity/Unit Liaison Duty," 26 January 2011
- (q) NYNMINST 1001.1B, "New York Naval Militia Administration Manual," March 3, 2017
- (r) 5 U.S.C. §552a, as amended (the "Privacy Act")
- (s) SECNAVINST 5211.5E, "Department of the Navy (DON) Privacy Program," 28 Dec 2005
- (t) New York Public Officers Law Art. 6-A ("Personal Privacy Protection Law (PPPL) of New York State")
- (u) 31 U.S.C. §§1341-1342
- (v) 31 U.S.C. §§1511-1519