



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
**UNITED STATES ARMY CORPS OF ENGINEERS**  
**441 G STREET NW**  
**WASHINGTON, D.C. 20314-1000**

CELD-AV

MEMORANDUM FOR RECORD

SUBJECT: Aviation Policy Letter 20-06, Small Unmanned Aircraft Contractor and Third Party Flights on USACE Projects and Lands

1. U.S. Government use of SUAS has been in a state of constant change since late 2017 due to cyber security concerns. As a result, guidance from USACE HQ Aviation is constantly being updated to meet these needs. Contracted SUAS flights have recently been allowed under the current Army cyber waiver rules. This guidance details the steps necessary to enable contractor SUAS operations on USACE projects and lands. It also addresses recommended method(s) for enabling third party operations on USACE projects and lands without extending the USACE Cyber Waiver to the third party.
2. SUAS authority is delegated from the Chief of Engineers to the Headquarters Aviation Program Manager (APM). Aviation procedures are documented in USACE Aviation Policy Letter (APL) 19-08 where this guidance will be incorporated on the next revision.
3. The following details the contractor requirements to operate an SUAS on USACE projects and lands:
  - a. Contractor is solely responsible for safety, liability, and adherence to required federal, state, and local requirements for SUAS flight.
  - b. Contractor must use a system approved on the current Army cyber-waiver (see attached appendices).
  - c. Contractor must follow USACE Aviation Policy Letter 19-08 for cyber security section 9.
  - d. Contractor must be observed by a USACE Trusted Agent to verify cyber compliance.
  - e. Contractor's SUAS cannot connect to any network during the mission (from initialization to shutdown).
  - f. Camera lens covers must remain on UAVs until ready to fly mission.
  - g. Contractor must initialize the system on-site.
  - h. Contractor must wipe media according to NIST standard 800-88 before and after flight.

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- i. Contractor must process data through air gap process described in APL 19-08 section 9.
4. The trusted agent requirements for contractor SUAS flights on USACE projects and lands are:
  - a. USACE Trusted Agent(s) must monitor & validate contractor is adhering to cyber security process.
  - b. USACE Trusted Agent(s) must email completed report of flight to Jason Kirkpatrick (USACE APM) after each flight.
  - c. Restrict flights to SUAS included in the Army or OSD approved USACE waiver appendices.
5. The contractor will inform USACE of their request to use SUAS. The date(s), location, airframe, and purpose should be included in the notification. Contractor SUAS must be one of the systems listed in Appendix A or B of current USACE Army cyber security waiver. This is a list of authorized aircraft that can be flown to complete the mission.
6. Contractor must follow USACE Aviation Policy Letter 19-08 for cyber security Section 9 excepting para 9.4. The contractor may use a non-ACE-IT machine for air gapping data, but must ensure virus protections are up to date.
7. Contractor must be observed by a USACE Trusted Agent for compliance. The trusted agent is only authorized to observe cyber security compliance. All flight operations are the responsibility of the contractor.
8. The trusted agent must email [HQAviation@usace.army.mil](mailto:HQAviation@usace.army.mil) with the data from the contractor notification. The trusted agent must submit a close-out report via email after the mission. If the mission is cancelled or delayed, the close-out report will still be required to notify HQ Aviation. The following is an example of a close-out report. Each paragraph is a required item:
  - a. Date of Mission
  - b. District / Lab / Center supported by the mission
  - c. Trusted Agent Name
  - d. Contractor Company Executing Mission
  - e. Result (completed, partial, cancelled w/ reason, rescheduled w/ reason)
  - f. Nature of flight requirement (Choose one):
    - (1) Contractor flew for internal support of other activity (construction, etc.)
    - (2) Contractor flew to collect data for USACE (contracts primary purpose)

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g. Statement of cyber compliance (e.g. The mission was conducted IAW the Trusted Agent Guidelines, APL 19-08 section 9, and the USACE Cyber Security Waiver).

h. Discrepancies noted and actions taken or needed.

i. Request for follow up from HQ Aviation (if Yes, include contact info – phone & email)

9. Trusted Agent qualification. Trusted Agents must review and acknowledge the requirements of this guidance and APL 19-08 prior to being designated. Any Aircrew Training Program Manager (ATPM) may complete a brief (<1 hour) review to qualify a Trusted Agent.

10. Third party operations on or near USACE projects introduce potential for loss of information protection/security regarding Army activities. District commander approval is required for any entity to use SUAS, and the following guidance is a recommended method to inject due diligence on the part of USACE without impeding third party activities.

11. A third party conducting SUAS operations for commercial purposes must have District Commander approval IAW 36 CFR § 327.4b, which states, “The operation of aircraft on project lands at locations other than those designated by the District Commander is prohibited.” Commanders may use this guide to establish cyber security standards for the third party operation without assuming responsibility for training or oversight of the activity. This guide is not recommended for use with recreational drone use by private individuals.

a. The third party may request operations and provide the same information listed for contractor submittals. The date(s), location, airframe, and purpose should be included in the notification.

b. USACE will recommend the third party’s SUAS be one of the systems listed in Appendix A or B of current USACE Army cyber security waiver. The request should clearly note if the SUAS is included in the USACE list or not.

c. The request will acknowledge the cyber security concerns associated with SUAS operation on USACE projects and enumerate the procedures from APL 19-08 they comply with, and the ones they do not with reason and potential alternative mitigations.

d. The request will indicate the willingness of the third party to allow a USACE Trusted Agent to observe the operation.

e. The request will clearly state that the third party is solely responsible for safety, liability, and adherence to required federal, state, and local requirements for SUAS flight.

f. The District Commander may appoint a Trusted Agent to observe the third party operations or not based on confidence in the third party’s compliance. If personnel are available, commanders are encouraged to appoint a Trusted Agent.

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g. If the District Commander authorizes the third party operation, a copy of the authorization will be provided to the HQ USACE Aviation office along with a Trusted Agent Close Out report (if available) at the email address listed below.

12. Guidance for Contracting Officers:

a. Public Aircraft Operations (PAOs) – Aircraft Operations require varying degrees of Government oversight. PAOs require the highest level of government oversight as directed in AR 95-20 and require the inclusion of the Ground and Flight Risk Clause (GFRC) in the contract. The GFRC requires extensive oversight and documentation that makes most Small UAS PAOs cost-prohibitive.

b. The majority of contract aerial imagery collection activities can be defined as Civil Operations. For civil operations, the contractor maintains responsibility for all aspects of the UAS activity and is only required to verify compliance with USACE and Army Cyber Security Requirements explained in USACE Aviation Policy Letter 19-08, Section 9. The following paragraphs explain methods to correctly contract UAS as Civil Operations.

c. If needed, please contact Headquarters, USACE Aviation to determine: 1) whether the contractor's aviation activity is a Public or Civil Aircraft Operation, 2) the scope and method of Government oversight, and 3) if specific language for the effective application of the GFRC is required.

d. Contractor Liability – Civil Aircraft Operations are excluded from the Government's assumption of risk, thus not covered by the GFRC. Whether the contractor has private insurance or not, they are liable for damage to property and their own equipment.

e. Minimum Language for Contracts Involving remote imagery or data collection (like UAS) – If the activity can be accurately described as collection of data / imagery by means to be determined by the contractor, with contractor equipment and personnel, then, barring specific exceptions (in Title 49, U.S.C. § 40101 and 40125), it is a civil operation. For Civil Operations, the contract should only include adequate language to ensure contractors comply with the requirements of this policy letter.

13. The point of contact for this action is the undersigned at [Jason.Kirkpatrick@usace.army.mil](mailto:Jason.Kirkpatrick@usace.army.mil).

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