



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

CEMP-II (415)

JUN 06 2008

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Military Construction (MILCON), Army (MCA), Unspecified Minor Military Construction, Army (UMMCA) and Army Family Housing Construction (AFHC) Cost Variations, Reprogramming Requests and Notification of Scope Reduction Actions

1. Reference:

a. AR 415-15, Army Military Construction Program Development and Execution, dated 4 Sep 98.

b. CEMP-MA memorandum, 7 Apr 94, subject: Military Construction, Army (MCA) and Army Family Housing Construction (AFHC) Cost Variations and Reprogramming.

c. CEMP-II memorandum, 19 Apr 05, subject: Army Military Construction (MILCON) Congressional Notification Requirements for Project Scope Reductions.

2. The attached policy is re-issued for MCA and AFHC projects and supersedes references 1.b and 1.c. The purpose of this policy is to promote effective cost management for Army MILCON, organizational learning, and outline procedures and requirements for requesting approval for Cost Variations, Reprogramming and Notification of Scope Reduction actions. It is important that we develop and execute our MILCON program with diligence in managing cost and minimizing the number of requests to Congress for project cost variation and reprogramming actions. These actions are costly, time consuming, delay delivery of facilities to users, and divert limited resources from other pressing Army requirements.

3. POC for this memorandum is Mrs. Maryann Delaney, CEMP-II, 202-761-5775, email: maryann.a.delaney@hq02.usace.army.mil.

FOR THE COMMANDER:

Encls


MERDITH W.B. TEMPLE
Brigadier General, USA
Director of Military Programs

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DISTRIBUTION:

COMMANDER,

US Army Engineer Division, Great Lakes and Ohio River, ATTN: CELRD-DL-M

US Army Engineer Division, Gulf Region, ATTN: CEGRD

US Army Engineer Division, North Atlantic, ATTN: CENAD-PP-M

US Army Engineer Division, Northwestern, ATTN: CENWD-MT-M (Portland)

US Army Engineer Division, Northwestern, ATTN: CENWD-MT-M (Omaha)

US Army Engineer Division, Pacific Ocean, ATTN: CEPOD-PP

US Army Engineer Division, South Atlantic, ATTN: CESAD-PM-P

US Army Engineer Division, South Pacific, ATTN: CESPDM-PM

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Naval Facilities Engineering Command, ATTN: Code 383

CF:

CDR, US Army Engineering and Support Center, Huntsville, ATTN: CEHNC-CD

Deputy Assistant Secretary of Army for Installations and Housing, ATTN: DASA(I&H)

Assistant Chief of Staff for Installation Management, ATTN: DAIM-FDC/DAIM-FDH

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CEMP-II

**INSTRUCTIONS FOR PREPARATION OF COST VARIATION,
REPROGRAMMING AND NOTIFICATION OF SCOPE REDUCTION
ACTIONS FOR MCA AND AFHC PROGRAMS**

1. Paragraph 5-16 d. of AR 415-15, Army Military Construction Program Development and Execution, dated 4 Sep 98, describes "cost variation" as an "increase in project authorization" and Paragraph 5-16 e., describes "reprogramming" as an "increase of project appropriation". By definition, any Current Working Estimate (CWE) above the project's authorized amount is a cost variation and any CWE above the project's appropriated amount is a reprogramming.

2. AR 415-15 provides the following approval thresholds:

a. Cost Variation – Applies to Authorization of Projects:

1) USACE can approve up to 15 percent over the authorized amount, or \$1.5M, whichever is less.

2) DASA(I&H) can approve up to 25 percent over the authorized amount, or \$3.0M, whichever is less, with certain exceptions.

3) The Authorization MILCON subcommittees approve authorization increases greater than 25 percent over the authorized amount or 200 percent of the minor construction project ceiling specified in section 2805 (a)(1) (currently \$3M), whichever is less. The award cannot take place until at least 21 calendar days, or 14 days for electronic submissions, after the Congress is notified and if there are no Congressional objections.

b. Reprogramming – Applies to Appropriation of Projects:

1) USACE can approve up to 15 percent over the appropriated amount, or \$1.5M, whichever is less.

2) DASA(I&H) can approve up to 25 percent over the appropriated amount, or \$2.0M, whichever is less, with certain exceptions.

3) The Appropriation MILCON subcommittees must approve in writing any increase greater than 25 percent over the appropriated amount, or \$2.0M, whichever is less.

4) Baseline adjustments: *(The following text is from Senate Report 107-68 – page 11)*: The following rules apply for all military construction and family housing reprogrammings. A project or account (including the sub-elements of an account) which

has been specifically reduced by the Congress in acting on the appropriation request is considered to be a congressional interest item. A prior approval reprogramming is required for any increase to an item that has specifically reduced by the Congress. Accordingly, no below threshold reprogrammings to an item specifically reduced by the Congress are permitted.

The reprogramming criteria that apply to military construction projects (25 percent of the funded amount or \$2.0M whichever is less) continue to apply to new housing construction projects and to improvements over \$2.0M. To provide the individual services the flexibility to proceed with construction contracts without disruption or delay, the costs associated with environmental hazard remediation such as asbestos removal, radon abatement, lead-based paint removal or abatement, and any other legislated environmental hazard remediation may be excluded, provided that such remediation requirements could not be reasonably anticipated at the time of budget submission. This exclusion applies to projects authorized in the budget year, and also projects authorized in prior years for which construction contracts have not been completed. Furthermore, in instances where a prior approval reprogramming request for a project or account has been approved by the Committee, the amount approved becomes the new base for any future increase or decrease via below threshold reprogrammings (provided that the project or account is not a congressional interest item).

5) Reprogramming limits do not apply to individual Unspecified Minor Military Construction Army (UMMCA) projects. Cost increases for UMMCA projects are handled by re-approving the project at a higher amount pursuant to 10 USC 2805.

3. The following summarizes procedures and requirements for any request that exceeds the PA:

a. New awards where project CWE exceeds the PA, but is within USACE authority:

1) The Regional Integration Team (RIT) will provide a copy of the standard CWE sheet to the Program Integration Division (PID) national account manager and to DAIM-FDC, attention Mr. Michael D. Stygar for MCA projects prior to award. You may not grant the district the authority to award until OACSIM has issued Code 9 authority.

2) The RIT will provide a copy of the standard CWE sheet to the PID national account manager and DAIM-FDH, attention Mr. Richard Hentz for AFHC projects, prior to advertising. Note, the bid schedule and CWE sheets for AFHC projects must also be provided to Mr. Hentz prior to award in accordance with established policy. You may not grant the district the authority to award until OACSIM has issued Code 9 authority.

b. New awards or award of modification(s) requiring DASA(I&H) approval (up to 25 percent over the appropriated amount, or \$2.0M, whichever is less):

1) The district will prepare the following:

a) A cover memorandum, signed by the District Commander, requesting the reprogramming approval. This memorandum must provide basic project information (PN, FY, scope, etc), provide a brief summary of the status of the project and an explanation of why the reprogramming action is required, contributing factors and consequences if the request is not approved, and address AE responsibility if design errors/omissions are a factor.

b) A standard CWE spreadsheet, which includes all executed and pending contract modifications identifying whether the change was/is mandatory or discretionary. If mandatory, include an explanation of what caused the change (design error, differing site condition, etc.) and address AE responsibility if it is a factor. If the change was/is discretionary, indicate when DAIM-FDC approved the change.

c) A lessons learned report that is distributed to other Districts and Divisions to promote organizational learning. Minimum requirements for report are as follows.

- Project Background
- Description of Problem
- Lessons Learned from the project
- Preventive and Corrective measures being implemented to prevent the problem from reoccurring.
- Recommendations for USACE wide organizational improvements
- Point of contact/address/phone number

d) Cost Control Plans (CCPs) are required for project requests that exceed 20 percent over the PA or are \$1.9M above the PA. The CCP will lay out the plan to ensure management controls are being implemented to prevent the project from exceeding the DASA(I&H) thresholds of 25 percent or \$2.0M over the appropriated amount, whichever is less. DASA(I&H) may also require CCPs on other projects, depending on their sensitivity and visibility.

2) The Major Subordinate Command (MSC) will prepare a cover memorandum signed by the Division Commander endorsing the district package to the Regional Integration Team (RIT).

3) The RIT will prepare the following:

a) A cover memorandum to forward the package to OACSIM for action, signed by the Director of Military Programs or his deputy. No other signatures are acceptable.

- This memo must be coordinated with CERM-BF to identify the source of funds and with the PID national account manager. Draft copies of the document should be shared with the OACSIM at this point.

- The cover memo must also indicate that a lessons learned report has been distributed throughout USACE.

c. New awards or award of modification(s) requiring Congressional reprogramming approval (greater than 25 percent over the appropriated amount, or \$2.0M, whichever is less):

1) In addition to the items in paragraph 3.b., a Congressional Reprogramming form will be completed by the RIT. An example of this form is attached at Appendix A.

2) Congressional reprogramming actions must be submitted to OSD NLT the 5th working day of the month for processing that month. Any submissions received by OSD after the 5th working day will be held by OSD for the next month's processing. You should allow two weeks processing time by OACSIM, DASA and the Army Budget Office (ABO) to submit the requests to OSD.

d. New awards or award of modification(s) requiring Congressional reprogramming and cost variation approval (greater than 25 percent over the authorized amount, or \$3.0M, whichever is less):

1) In addition to the items in paragraphs 3.b. and 3.c., a Cost Variation report will be completed by the RIT. An example of this form is attached at Appendix B.

4. Additionally, AR 415-15 addresses scope and cost reductions:

a. Scope and Cost Reductions.

1) Per 10 USC 2853, the Secretary of the Army must approve and notify Congress when the project scope is reduced below 75 percent of the scope originally approved by the Congress. The award cannot take place until at least 21 calendar days, or 14 days for electronic submissions, after the Congress is notified and if there are no Congressional objections.

2) When determining the extent of a reduction in the scope of work, the reductions in dollars as well as engineering based attributes (i.e., square footage reductions) shall be used to determine the 25 percent scope change threshold reflected in 10 USC 2853.

3) Documentation required for Notification of Scope Reduction will be prepared in accordance with paragraph 3.b.

Appendix A

Bid Expiration Date: N/A (Project Awarded)
Military Construction, Army
Reprogramming Request

Installation. Pine Bluff Arsenal, Arkansas

Project. Quality Evaluation Facility (QEF), Project Number (PN) 012917

Authorization. National Defense Authorization Act for Fiscal Year (FY) 2001, Public Law 106-398.

Estimated Cost:

Previously Appropriated	\$ 18,000,000*
Previously Reprogrammed	\$ -905,000*
Requested Reprogramming	\$ 3,900,000
Total Estimated Cost	\$ 20,995,000

*This project was originally authorized and appropriated at \$18,000,000 by Congress, and subsequently \$905,000 of this project was used as a source project for the Arvin Gym reprogramming in 2002 which resulted in the new authorized and appropriated amount of \$17,095,000.

Description. The project consists of a laboratory (chemical agent sample testing area) and administrative wing with a unique six-million dollar air handling system designed to provide the appropriate negative pressures in various parts of the facility and to completely filter and refresh the laboratory's air every 90 seconds. The facility is designed to handle toxic chemical warfare agents. The safety standards for these agents require that the material be handled in laboratory fume hoods with a standard exhaust rate. There are a large number of these hoods in the lab and the end result is that a large quantity of outside air is required to be introduced into the building to supply this constant exhaust requirement. As required by safety standards, no air is re-circulated in the toxic labs.

Justification. The contractor installed and tested the filter system in 2004. The filters passed the acceptance tests at that time. Subsequently, the HVAC system failed in July 2004 and the filters were subjected to significant moisture. The HVAC system failed because the natural gas supply to the building was interrupted. There was no contractor

liability, nor any failure of the equipment itself which would have been covered under warranty. The filters have degraded even further because of the time it took to repair the damage from HVAC system failure. The building repairs required due to the HVAC system failure took over a year to complete. The filters were in service much of this time, as they are an integral part of the building heating and cooling system. These filters are considered expendable items, that is, the longer they are used, the more likely they are to fail. After the repairs, the filters were retested and did not meet the acceptance tests. The filters need to be replaced and retested. This reprogramming will provide funding for the replacement filters, the cost of management and design to reprogram the emergency power switch, and pursuing A-E liability.

The term "emergency power switch" is used to describe what could more accurately be called a switching system which converts the facility to backup emergency power upon failure of commercial power. It consists of several UPS systems, a computer that controls all mechanical equipment, and the emergency generator. The computer's role is to recover operation and return to normal as quickly as possible after a commercial power failure. This computer was originally programmed under a set of assumptions by the AE as to what should happen during an emergency power failure. The user of the facility determined at final building acceptance that the system was inadequate to support the operations of the facility.

The project is 99 percent complete and ready to be turned over once the filters are replaced and the emergency power switch's computer is reprogrammed. The A-E liability action stems from the extensive damage to the exterior walls of the facility due to the interruption of natural gas supply to the facility in July 2004. The A-E liability is being pursued due to lack of moisture and air barriers in the exterior walls and for susceptibility to equipment malfunction due to utility failures.

Source of Funds. The specific project to be used to fund this action is shown below.

	Fiscal Year	Amount Appropriated	Current Working Estimate	Proposed
Reprogramming Location & Project				
Ft Anwhere, \$3,900,000 Barracks PN 12345	2005	\$9,300,000	\$5,400,000	

Appendix B

Bid Expiration Date: N/A (Project Awarded)
 Cost Variation Report
 As Required by 10 USC 2853

Construction Complete <u>Location/Project</u> <u>(%)</u>	Fiscal <u>Year</u>	Amount	Amount	Current	Change <u>(%)</u>
		Authorized	Appropriated	Estimate	
Pine Bluff Arsenal, AR 99% Quality Evaluation Facility (QEF) PN 012917	2001	\$17,095,000*	\$17,095,000*	\$20,995,000	22.8%

* This project was originally authorized and appropriated at \$18,000,000 by Congress and subsequently \$905,000 of this project was used as a source project for the Arvin Gym reprogramming in 2002 which resulted in the new authorized and appropriated amount of \$17,095,000.

AUTHORIZATION.

National Defense Authorization Act for Fiscal Year (FY) 2001, Public Law 106-398.

DESCRIPTION.

The project consists of a laboratory (chemical agent sample test area) and administrative wing with a unique six-million dollar air handling system designed to provide the appropriate negative pressures in various parts of the facility and to completely filter and refresh the laboratory's air every 90 seconds. The facility is designed to handle toxic chemical warfare agents. The safety standards for these agents require that the material be handled in laboratory fume hoods with a standard exhaust rate. There are a large number of these hoods in the lab and the end result is that a large quantity of outside air is required to be introduced into the building to supply this constant exhaust requirement. As required by safety standards, no air is re-circulated in the toxic labs.

JUSTIFICATION. The contractor installed and tested the filters in 2004. The filters passed the acceptance tests at that time. Subsequently, the HVAC system failed in July 2004 and the filters were subjected to significant moisture. The HVAC system failed because the natural gas supply to the building was interrupted. There was no contractor liability, nor any failure of the equipment itself which would have been covered under warranty. The filters have degraded even further because of the time it took to repair the damage from HVAC system failure. The building repairs required due to the HVAC

system failure took over a year to complete. The filters were in service much of this time, as they are an integral part of the building heating and cooling system. These filters are considered expendable items, that is, the longer they are used, the more likely are to fail. After the repairs, the filters were retested and did not meet the acceptable tests. The filters need to be replaced and retested. This reprogramming the emergency power switch, and pursuing AE liability

The term "emergency power switch" is used to describe what could more accurately be called a switching system which converts the facility to backup emergency power upon failure of commercial power. It consists of several UPS systems, a computer that controls all mechanical equipment, and the emergency generator. The computer's role is to recover operation and return to normal as quickly as possible after a commercial power failure. This computer was originally programmed under a set of assumptions by the AE as to what should happen during an emergency power failure. The user of the facility determined at final building acceptance that the system was inadequate to support the operations of the facility.

The project is 99 percent complete and ready to be turned over once the filters are replaced and the emergency power switch's computer is reprogrammed. The AE liability action stems from the extensive damage to the exterior walls of the facility due to the interruption of natural gas supply to the facility in July 2004. The AE liability is being pursued due to lack of moisture and air barriers in the exterior walls and for susceptibility to equipment malfunction due to utility failures.

SOURCE OF FUNDS

The specific project to be used to fund this action is shown below:

Location/ Project	Fiscal Year	Amount Appropriated	Current Working Estimate	Proposed Reprogramming
Ft Anywhere Barracks PN 12345	FY 2005	\$9,300,000	\$5,400,000	\$3,900,000



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2. The attached policy is re-issued for MCA and AFHC projects and supersedes references 1.b and 1.c. The purpose of this policy is to promote effective cost management for Army MILCON, organizational learning, and outline procedures and requirements for requesting approval for Cost Variations, Reprogramming and Notification of Scope Reduction actions. It is important that we develop and execute our MILCON program with diligence in managing cost and minimizing the number of requests to Congress for project cost variation and reprogramming actions. These actions are costly, time consuming, delay delivery of facilities to users, and divert limited resources from other pressing Army requirements.

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FOR THE COMMANDER:

Encls


MERDITH W.B. TEMPLE
Brigadier General, USA
Director of Military Programs