



**US Army Corps
of Engineers®**

ENGINEERING AND CONSTRUCTION BULLETIN

No. 2014-1

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Subject: Authorized Scope of Work for Military Construction (MILCON) Projects

Applicability: Directive and Policy

References:

a. Title 10 United States Code (U.S.C.) Section 2851 – Supervision of Military Construction Projects.

b. Department of Defense (DoD) Directive 4270.5, 12 February 2005, Military Construction.

c. Department of Defense Inspector General Report, No. DODIG-2012-057, 27 February 2012, subject: Guidance Needed to Prevent Military Construction Projects From Exceeding the Approved Scope of Work.

d. Title 10 United States Code (U.S.C.) Section 2853 - Authorized cost and scope of work variations, as amended.

e. Memorandum, ODUSD(I&E), 24 June 2013, subject: Authorized Scope of Work for Military Construction Projects

f. Army Regulation (AR) 420-1, 12 February, 2008, Army Facilities Management (Chapter 4 – Army Military Construction and Nonappropriated-Funded Construction Program Development and Execution)

g. Department of the Army Pamphlet 415-28, 11 April 2006, Guide to Army Real Property Category Codes.

h. Engineer Regulation (ER) 1110-345-700, 30 May 1997, subject: Design Analysis, Drawings, and Specifications

i. Engineer Regulation (ER) 415-1-11, 1 January 2013, subject: Biddability, Constructability, Operability, Environmental, and Sustainability (BCOES) Reviews

j. Memorandum, CEMP-IR, 30 June 2011, subject: Revised Current Working Estimate (CWE) Workbook – POLICY MEMORANDUM.

k. Memorandum, CEMP-I, 7 June 2013, subject: Criteria for Elevation of Military Construction (MILCON) Project Issues to HQUSACE and National Program Proponents – GUIDANCE MEMORANDUM.

1. **Purpose:** Foster USACE-wide understanding of statutory restrictions on the authorized scope of military construction projects and military family housing projects. Establish policy and requirements to ensure compliance with the statute and OSD policy requiring that the Department of Defense (DoD) Construction Agent certify that the final facility design is within the scope of work authorized by Congress, and provides for a complete and useable facility. Establish policy and controls to ensure that required Congressional notifications are completed prior to award of a military construction project that has a scope reduction of more than 25 percent to the scope of any distinct facility line item on the DD Form 1391.

2. **Background.**

a. With enactment of the FY 13 National Defense Authorization Act, Title 10 U.S.C. Section 2853 was amended to clearly state that the scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may not be increased above the amount specified for that project in the justification data provided to Congress. The law was further amended to define “scope of work” as referring to the “function, size, or quantity of a facility or item of complete and useable infrastructure contained in the justification data provided to Congress as part of the request for the authorization of the project, construction, improvement, or acquisition.” The justification data provided to Congress as part of the request for authorization of the project is the DD Form 1391 included in the President’s Budget submission.¹

b. The 24 June 2013 ODUSD (I&E) memorandum (Reference e. and Attachment 1) provides guidance and policy designed to ensure compliance with authorized scope of work for Military Construction projects. The memorandum includes three key requirements that impact USACE processes, these requirements are:

(1) The DoD construction agent for a project must certify to the project sponsor, prior to final design approval, that the final facility design is within the scope of work authorized by Congress, and that it provides for a complete and useable facility.

(2) Scope variations will be measured against the scope of distinct facilities (meaning each distinct facility line item) represented in Block 9 of the DD Form 1391.

(3) A Congressional notification of scope reduction will be required for decreases in scope greater than 25 percent for any distinct facility. As such, any single distinct facility line item that is decreased by more than 25 percent will require completion of a Congressional notification of scope reduction before award can be authorized. This requirement does not apply to line items that are identified as a “lump sum”.

3. **Scope.** The policy and requirements of this ECB apply to all military construction projects that are line item authorized in annual defense authorization acts, including military family housing projects for which USACE is the statutory and designated DoD Construction Agent in accordance with 10 U.S.C. Section 2851 and DoD Directive 4270.5 (reference b.). This ECB does not apply to Unspecified Minor Military Construction (UMMC) projects. Scope questions or

¹ The term “DD Form 1391” in this document means the DD Form 1391 that was included in the President’s Budget, submitted to Congress for authorization, and authorized by Congress. The term “item of infrastructure” in this document only refers to an item of complete and useable infrastructure identified on the DD Form 1391.

issues related to Energy Conservation Investment Program (ECIP) projects should be addressed to the HQUSACE National Program Manager.

4. Policy.

a. Responsibility for Compliance with Authorized Scope of Work -- Project managers, designers and design teams are responsible and accountable for ensuring that plans and specifications, and request for proposal (RFP) documents define the government's requirements in a manner that does not exceed the authorized scope, meaning the function, size, or quantity of any distinct facility or item of infrastructure on the DD Form 1391. Architect-Engineer will include a requirement to design within the authorized scope of work as described by the DD Form 1391. Design-build construction contracts must describe the Government's requirements within the authorized DD Form 1391 scope, and shall require the contract to design within the authorized scope of work as described in the DD Form 1391.

b. Design Analysis Requirements to Document Designed Scope: As required by Appendix B, Part 1, paragraph 1.b.(2) of ER 110-345-700 (reference g.), the design analysis for projects within the scope of this ECB shall include a detailed synopsis of the scope of work authorized under the DD Form 1391. In addition, each design analysis shall include:

- 1) Calculations and discussion for each distinct facility or item of infrastructure to document how scope of the design was calculated with references to the applicable regulations that prescribe how scope is calculated and measured.
- 2) Discussion and documentation demonstrating how the designed facility or item of infrastructure satisfies the authorized function and is within the authorized scope of work using the units of measure of the DD Form 1391.
- 3) Identification and analysis of any variations from the scope of the DD Form 1391, explaining why the full authorized scope of the project is not included in the design, and who approved the deviation. Providing less than the authorized scope of the project requires approval of the national program proponent.

Once final design authority is released by HQ USACE or our National Proponents, the installation/user and Project Delivery Team (PDT) do not have authority to deviate from the scope of the DD Form 1391. For Army MILCON projects, any proposed scope reduction must be coordinated with Headquarters, Installation Management Command, and approved by the ACSIM Construction Division in accordance with paragraph 4-51 of AR 420-1 (reference f.). Scope variation issues must be reported to HQUSACE for tracking in our issue management process as per paragraph 4.f.(1) below.

c. Review Requirements to Verify Compliance with Authorized Scope: Design reviews after receipt of final design authority will include review of design scope to verify that each distinct facility or item of infrastructure is within the scope represented in the DD Form 1391. This assessment will include distinct facilities or items of infrastructure described both in Block 9 and elsewhere in the DD Form 1391. For example, some projects will identify demolition in Block 9 as a Lump Sum, and quantify the square footage/square meters to be demolished in Block 10. The review of design versus authorized scope will include reviewing the function of the distinct facility or item of infrastructure as designed, to ensure that it fulfills the function described in the DD Form 1391. The requirements to review the design for compliance with authorized scope includes

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both design reviews prior to construction contract award, and review of design-build contractor's design.

The Biddability, Constructability, Operability, Environmental, and Sustainability (BCOES) review of a project will not be considered complete if the scope of any distinct facility exceeds the scope represented in Block 9 of the DD Form 1391. ER 415-1-11 (reference h.) establishes policy and systematic procedures for conducting effective reviews of a project's Biddability, Constructability, Operability, Environmental, and Sustainability (BCOES) characteristics. ER 415-1-11 requires that the BCOES review evaluate the clarity and correctness of the Government's requirements authorized in the project approval documents, as represented in the plans, specifications, request for proposal and other project solicitation documents. For MILCON projects, the project approval document is the DD Form 1391. BCOES checklists for MILCON projects must include items 1 and 2 of the Design-Bid-Build BCOES Checklist in Appendix B of ER 415-1-11, and item 1 of the Design-Build BCOES Checklist in Appendix C of ER 415-1-11.

d. DoD Construction Agent Certification Requirements: As described in paragraph 2.b.(1) above, reference e. requires that the DoD construction agent for a project must certify to the project sponsor, prior to final design approval, that the final facility design is within the scope of work authorized by Congress, and that it provides for a complete and useable facility.

(1) For all projects within the scope of this ECB (see paragraph 3 above), the certification will be completed by the Chief of Engineering and the Chief of Military Project Management Branch (or equivalent) at the district(s) with responsibility for the project; and documented on the BCOES Certification Sheet for the project.

(2) The following statement will be added to the BCOES Certification Sheet (see Attachment 2 for sample/template) above the signatures of the Chief of Engineering and the Chief of Military Project Management Branch.

"As required by Memorandum, ODUSD(I&E), 24 June 2013, subject: Authorized Scope of Work for Military Construction Projects, the undersigned certify that the scope for each distinct facility or item of infrastructure included in the design documents and request for proposal provides for the authorized function and is at or below the scope of work, as represented in Block 9 of the DD Form 1391 authorized by Congress. The undersigned further certify that the Government's requirements as described and represented in the design documents and request for proposal will provide for a complete and useable facility or facilities."

e. Documentation of designed scope in the Standard MILCON Current Working Estimate (CWE) Workbook: The use of the Standard MILCON CWE Workbook, including completion of the scope tab in the workbook, is mandatory for all projects within the scope of this ECB in accordance with reference j. policy memorandum. The scope tab of the Standard MILCON CWE Workbook calculates scope variations as required by reference e. The CWE Workbook is posted on the Project Management Business Process (PMBP) Portal website at

https://pmbp.usace.army.mil/portal/page/portal/DocLib/Mission_Specific/fldr_Military/CWECalcForms/

Submission and review of a completed CWE Workbook and scope tab is required prior to advertising and award of a MILCON project in accordance with the specific requirements and management controls described in paragraph 4.f. below.

f. Management Controls and Review by Higher Headquarters:

(1) Issue Management -- During any phase of project execution after release of final design authority or inclusion of a project in the President's Budget Submission (whichever is earlier), any instance of design scope exceeding authorized scope for any distinct facility or item of infrastructure represented in the DD Form 1391 must be reported to HQUSACE as an issue to be discussed with the program proponent. Approval of the national program proponent is required if design scope is less than the authorized scope for any distinct facility or item of infrastructure represented in the DD Form 1391. For programs not centrally managed by HQUSACE, districts and MSCs are to report directly to the program proponent without delay to facilitate early resolution of scope related issues. All issues related to deviations from authorized scope must be elevated to the HQUSACE National Program Manager as soon as the issue is known. This ensures the engagement of the National Proponent responsible for programming the project and facilitates a timely resolution that satisfies National Proponent requirements. National program proponents are also encouraged to notify the HQUSACE National Program Manager of any issues of concern.

(2) Management Controls for Advertising and Award (HQUSACE Managed Programs) -- For projects in programs managed by HQUSACE (i.e. project funds provided direct via Funding Authorization Document (FAD) and/or authorities issued by HQUSACE by directive), the following information will be provided by responsible districts (through their Major Subordinate Command) to the responsible HQUSACE program manager with any request for authority to advertise:

- A. Completed and signed BCOES Certification (IAW paragraph 4.d. above)
- B. Complete and accurate CWE worksheet (to include scope tab as required in paragraph 4.e. above)

The HQUSACE program manager will review the documents and resolve any questions or concerns related to the accuracy and completeness of either the scope certification or CWE worksheet. Advertising authority will not be released until the HQUSACE program manager is satisfied with the accuracy and completeness of documents, and the certification and CWE worksheet have been provided to the program proponent.

An updated CWE worksheet that reflects project pricing based on evaluated proposals (to include complete and accurate scope tab) will be provided to the HQUSACE program manager with any request for authority to award. This CWE worksheet will be reviewed to determine whether authorized scope is being exceeded for any distinct facility or item of infrastructure in Block 9, or elsewhere on the DD Form 1391, and to determine if a Congressional notification of scope reduction is required. Such Congressional notifications will be required when the scope of one (1) or more distinct facilities or items of infrastructure quantified in Block 9, or elsewhere on the DD Form 1391 has been reduced by more than 25 percent. Award authority will be released only after any scope issues have been resolved and after completion of the notice and wait period following any required Congressional notifications of scope reduction. Project Delivery Teams should work closely with stakeholders and the National Proponent to ensure that the scope designed is not only authorized, but necessary to meet project requirements. Scope reductions can effectively satisfy stakeholder requirements, and are necessary when a National Proponent determines that particular items are no longer required. Congressional notifications of scope reduction are routine actions when properly coordinated.

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(3) Management Controls for Advertising and Award (Proponent Managed Programs) – For projects in programs not managed by HQUSACE (i.e. funds provided to responsible district by reimbursable order (MIPR), the following information will be provided by responsible districts to the program funding proponent (with a copy to the assigned HQUSACE National Program Manger) with any request for authority to advertise:

- A. Completed and signed BCOES Certification (IAW paragraph 4.d. above)
- B. Complete and accurate CWE worksheet (to include scope tab as required in paragraph 4.e. above)

Advertising may proceed with proponent authority in accordance with established procedures only after the scope certification and CWE worksheet have been received and acknowledged by the program funding proponent.

An updated CWE worksheet that reflects project pricing based on evaluated proposals (to include complete and accurate scope tab) will be provided to the program proponent with any request for authority to award. The responsible district will clearly identify to the program proponent if authorized scope is being exceeded for any distinct facility or item of infrastructure in Block 9 or elsewhere on the DD Form 1391, and if a Congressional notification of scope reduction is required. Construction contract award with appropriate proponent authority is permissible only after any scope issues have been resolved and after completion of the notice and wait period following any required Congressional notifications of scope reduction.

5. Points of Contact. The HQUSACE Engineering & Construction Division (CECW-CE) point of contact is Mr. Rick Calloway, 202-761-7500. The Headquarters HQUSACE Military Programs Integration Division (CEMP-I) points of contact are Mr. John M. Jones, 202-761-5789 and Mr. Gary Skusek, 202-761-5749.

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JAMES C. DALTON, P.E., SES
Chief, Engineering and Construction Division
Directorate of Civil Works

//S//
RICHARD A. HANCOCK, P.E., SES
Chief, Programs Integration Division
Directorate of Military Programs

Attachments:

1. Memorandum, ODUSD(I&E), 24 June 2013, subject: Authorized Scope of Work for Military Construction Projects
2. BCOES Certification Sample/Template



OFFICE OF THE UNDER SECRETARY OF DEFENSE

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WASHINGTON, DC 20301-3000

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

JUN 24 2013

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (INSTALLATIONS,
ENERGY, AND ENVIRONMENT)
ASSISTANT SECRETARY OF THE NAVY (ENERGY,
INSTALLATIONS, AND ENVIRONMENT)
ASSISTANT SECRETARY OF THE AIR FORCE
(INSTALLATIONS, ENVIRONMENT, AND LOGISTICS)
COMMANDER, U.S. SPECIAL OPERATIONS COMMAND
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Authorized Scope of Work for Military Construction Projects

The Department of Defense (DoD) Inspector General released a report in February 2012 that identified issues with defining and executing the authorized scope of work for military construction projects. Although the report focused on projects in Afghanistan, it demonstrated the need for greater clarity and consistency in defining the authorized scope of work across the entire military construction program.

In view of this, I am issuing the attached guidance applicable to Military Construction project documentation and administration, with emphasis on scope-of-work variations covered by section 2853 of title 10, United States Code, as recently amended by the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239). This policy will be incorporated into a future DoD Instruction, and will become effective with projects authorized in FY 2014, except for the requirement for additional data on DD Form 1391, which will become effective with projects submitted for authorization in FY 2015.

I appreciate your support to ensure that our projects fully meet mission requirements within available resources and other provisions of law.

John Conger
Acting Deputy Under Secretary of Defense
(Installations and Environment)

Attachment
As Stated

Authorized Scope of Work for Military Construction Projects

1. The following guidance applies to all specified military construction projects submitted to Congress for authorization in accordance with section 2802 of title 10, United States Code:

a. Each distinct facility listed in Block 9 of the DD Form 1391 (Military Construction Project Data) must indicate the appropriate five- or six-digit Military Department category code adjacent to the item description. A distinct facility possesses a unique real property category code described by the functional requirement in Block 11, and a quantity in the category code unit of measure. Components of distinct facilities that are listed separately do not constitute distinct facilities, even if quantified. Items such as cost premiums for design features (e.g., sustainable design) that are represented by "lump sum" quantities do not constitute distinct facilities.

b. Where a project includes multiple distinct facilities, Block 6 of the DD Form 1391 must reflect the code of the predominant facility.

c. The DoD construction agent for a project must certify to the project sponsor, prior to final design approval, that the final facility design is within the scope of work authorized by Congress, and that it provides for a complete and useable facility.

2. The following guidance applies to implementing scope-of-work variations for military construction projects in accordance with section 2853 of title 10, United States Code:

a. Scope variations for a military construction project shall be measured against the scope of distinct facilities represented in Block 9 of the DD Form 1391 authorized by Congress.

b. A scope variation is expressed as a percentage and calculated using the formula below for each distinct facility. Components shall notify Congress of decreases in scope greater than 25 percent for any distinct facility, and certify that the decreased scope still satisfies the mission requirement. Because section 2853 does not authorize increases in scope, Components must seek additional authorization via the annual authorization process if additional scope is required.

$$\% \text{ scope variation} = \left(\frac{\text{revised facility quantity}}{\text{authorized facility quantity}} - 1 \right) \times 100\%$$

c. The congressionally-authorized project scope (quantity) shall remain the baseline for purposes of calculating the percent variation on all scope changes over the life of the project.

APPENDIX A

Sample BCOES Certification

Name of Project/Project Number: _____/_____

Phase or Type of Project: _____

Certification Date: _____

I, (the PM), certify that the Value Engineering process as required by ER 11-1-321 (Change 1 or latest version), Army Programs Value Engineering has been completed for this procurement action. I certify compliance with Public Law 99-662 (33 USC 2288) and OMB Circular A-131. A VE study was (completed/waived) on (date) by the appropriate authority. All rejected VE proposals indicating potential savings of over \$1,000,000 have been resolved with approval of the MSC Commander.

Assigned Project Manager (dd/mm/yr)

Value Engineering Officer (dd/mm/yr)

As required by Memorandum, ODUSD(I&E),24 June 2013, subject: Authorized Scope of Work for Military Construction Projects, the undersigned certify that the scope of each distinct facility or item of infrastructure included in the design documents and request for proposal provides for the authorized function and is at or below the scope of work, as represented in Block 9 of the DD Form 1391 authorized by Congress. The undersigned further certify that the Government's requirements as described and represented in the design documents and request for proposal will provide for a complete and usable facility or facilities.

Chief, Military Project Management (dd/mm/yr)

Chief, Engineering (dd/mm/yr)

The Bid or RFP Package has been reviewed for Biddability, Constructability, Operability, Environmental, and Sustainability (BCOES) requirements in accord with ER 415-1-11. The undersigned certify that all appropriate BCOES review comments have either been incorporated into the Bid or RFP Package or otherwise satisfactorily resolved. Comments, evaluations, and backchecks are documented in DrChecks.

Chief, Engineering (dd/mm/yr)

Chief, Construction (dd/mm/yr)

Chief, Planning (when appropriate)

Chief, Operations (when appropriate)

Chief, Real Estate (when appropriate)