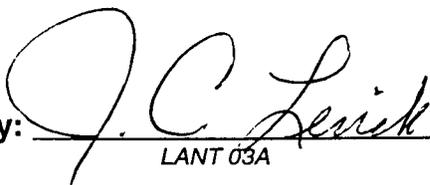


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**Atlantic Division
Naval Facilities Engineering Command**

**Interim
Standard Operating Procedures
for LANT OPS review of
Disaster Recovery Efforts using Design-Build Contracts**

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Encl (1): Title 10 U.S.C. Sec. 2803 Emergency construction *and* Sec. 2854 Restoration or replacement of damaged or destroyed facilities

Purpose: Provide interim SOP to clearly define the level of technical review required for Design-Build contracts (such as CONCAP) design submissions, that are in support of on-going Disaster Recovery Efforts. A LANTDIV-wide standard process in an ISO 9000 format will be developed after this SOP is evaluated following completion of on-going Hurricane Recovery efforts in Puerto Rico.

Background: Natural disasters, acts of arson, and terrorism occur without warning and require a quick response to repair or replace, damaged or destroyed facilities. The sense of Congress (both the House Armed Services Committee and Senate Armed Services Committee) is to expect a prompt response to restore mission effectiveness and to preclude further deterioration of damaged facilities. Enclosure (1) represents two provisions in the law, which provide supplemental funding from Congress. To assure a timely response, operations and maintenance appropriations may be used to temporarily repair or restore damaged facilities. Funding for this effort can be provided from the Activity's or Major Claimant's operating funds or from Congress. If an economic analysis of the life-cycle cost shows that the most cost-effective alternative is facility replacement, military construction appropriations may be used to construct the replacement facility. The committees would expect that any replacement facility would use current design and material criteria, and may be altered or increased in size, to meet current mission and functional requirements.

Current methods of replacement:

- Station Forces or SEABEES
- In House Design or AE Design
- Design Build construction contracts such as CONCAP, CONDEL, MACC, etc. Each of these methods requires some level of design effort and review to clarify the extent of repairs. These repairs could extend from simply cutting down trees (no design required) to total replacement of an out-of-date undersized facility (major design required). There is a need to have guidelines available for use by Acquisition staff, to establish "when to review" and "to what detail we review" design submissions prior to construction efforts commencing.

Guidance:

- Repairs determined initially to be a "repair in kind" of similar materials and configurations generally need only minimal design review prior to construction efforts commencing, unless the benefiting activity requests our assistance. Our assistance could be limited to a cursory review by the lead discipline. The review should identify any system(s) that may be outdated, undersized, inappropriate, or inadequate. Reviewers should coordinate with the Activity to recommend alternate materials or methods that would normally be used today, but understanding that timeliness is a major factor in choosing the best course of action. Other factors include sound engineering judgement and cost. Review comments that have major cost or time-delay impacts should be presented to the Contractor as a Technical Directive issued by the Contracting Officer.
- Repairs that become a replacement of major portions of a facility or system(s) should use current design and material criteria, and may be altered or increased in size to meet current mission and functional requirements. This requires review oversight, which shall

take into account the desire to quickly restore while addressing life safety issues (such as structural soundness) and sound engineering principles. In those cases, we will want the design to be stamped by a Registered Architect or Engineer. Also, in some cases "As Built" record drawings may be beneficial and become a requirement if identified during the review process. Replacement of mechanical and electrical systems may be accomplished without detailed analysis, if there is a compelling need to waive analysis, due to time constraints. Otherwise, it is prudent to require sufficient analysis to insure adequate size and catalog cuts of high cost items. Review comments shall clearly indicate reviewer's desires. Review comments that have major cost or time-delay impacts should be presented to the Contractor as a Technical Directive issued by the Contracting Officer.

- The Code 05, as the COTR for a specific contract, may elect to conduct a "Design Review Kickoff" meeting which will inform reviewers of the level of review anticipated for a specific project and assist in making sure review comments, if any, are detailed enough that resolution of any problem will occur quickly.

Additional Factors for CONCAP (CPAF):

- Recognizing the need to complement the Naval Construction Force, LANTDIV developed and implemented CONCAP, which is a civilian contractor with standby profile to provide expeditious, broad, agile, and unencumbered capabilities. CONCAP is a Cost Plus Award Fee (CPAF) Contract. The contract Delivery Order award amount consists of two parts:
 - A reasonable cost for construction to the subcontractors and an overhead administration fee for CONCAP to perform the work as the general contractor. This cost is known as the "Target" cost.
 - An "Award Fee" of 5% that CONCAP will receive all or a portion of depending on evaluation of the completed work.
- During contractor performance, the Award Fee Board, with field input, will rate the contractor on performance elements that affect Cost Control, Responsiveness, and Effective Performance. Code 04 will be requested to provide input on those task orders requiring design review.
- CONCAP prepared designs are really documents for use by CONCAP to obtain subcontractor bids. Therefore, a project may contain several "packages" related to specific disciplines. For example, we may see a civil / structural / architectural package and separate mechanical and electrical packages for bidding by trades.
- Sound judgment should be used to balance review comments, given that each comment could increase the time required to complete design and incur additional design fees and construction costs. We must recognize that, unlike fixed cost AE designs, review comments on CPAF contracts become a direct cost to the contractor and are ultimately passed on to the Government.

- End -

Title 10 U.S.C. Sec. 2803 Emergency construction *and* Sec. 2854 Restoration or replacement of damaged or destroyed facilities

Sec. 2803. Emergency construction:

(a) Subject to subsections (b) and (c), the Secretary concerned may carry out a military construction project not otherwise authorized by law if the Secretary determines (1) that the project is vital to the national security or to the protection of health, safety, or the quality of the environment, and (2) that the requirement for the project is so urgent that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(b) When a decision is made to carry out a military construction project under this section, the Secretary concerned shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (1) the justification for the project and the current estimate of the cost of the project, (2) the justification for carrying out the project under this section, and (3) a statement of the source of the funds to be used to carry out the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees.

(c) (1) The maximum amount that the Secretary concerned may obligate in any fiscal year under this section is \$30,000,000. (2) A project carried out under this section shall be carried out within the total amount of funds appropriated for military construction that have not been obligated.

Sec. 2854. Restoration or replacement of damaged or destroyed facilities:

(a) Subject to subsection (b), the Secretary concerned may repair, restore, or replace a facility under his jurisdiction, including a family housing facility, that has been damaged or destroyed.

(b) When a decision is made to carry out construction under this section and the cost of the repair, restoration, or replacement is greater than the maximum amount for a minor construction project, the Secretary concerned shall notify in writing the appropriate committees of Congress of that decision, of the justification for the project, of the current estimate of the cost of the project, of the source of funds for the project, and of the justification for carrying out the project under this section. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees.

Enclosure (1)