

SECTION 1

INTRODUCTION

1-1. Purpose.

The purpose of this pamphlet is to provide resident engineers with information that will assist them in administering construction contracts. This pamphlet is offered strictly as a guide; Appendices B and C are provided as samples. This pamphlet supersedes the October 1973 issue of the Resident Engineer Management Guide, but does not supersede any regulations or contract requirements, or abridge command authority or responsibility.

1-2. Applicability.

This pamphlet applies to resident and area offices with either limited or full delegated authority to administer construction contracts. In addition, it applies to project or field offices with limited or no authority to act for the Contracting Officer. These guidelines are provided as assistance in carrying out the administrative responsibilities of construction work and are recommended for use by division and district agencies in developing more particular local regulations dealing with resident office functions.

1-3. Regulatory Publications. The regulations which govern the Corps of Engineers procurement of construction by contract are as follows:

a. Federal Acquisition Regulation (FAR). The FAR is the primary regulation for use by all federal executive agencies in their acquisition of supplies and services with appropriated funds. The FAR system has been developed in accordance with the requirements of the Office of Federal Procurement Policy Act of 1974; as amended by Public Law 96-83. The FAR is issued by the Administrator for Federal Procurement Policy.

b. Federal Acquisition Circular (FAC). The FAC supplements the FAR and is approved by the Administrator for Federal Procurement Policy.

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c. Department of Defense FAR Supplement (DFARS). The DFARS is issued by the undersecretary of Defense for Research and Engineering. The DFARS establishes uniform DOD policies and procedures, implementing and supplementing the FAR.

d. Defense Acquisition Circular (DAC). The DAC supplements DFARS and is approved by the Defense Acquisition Regulatory Council.

e. Armed Services Procurement Regulation Manual No. 1 (ASPM No. 1). The Armed Services Procurement Regulation Manual for Contract Pricing is published as a training and instructional guide and is non-directive in nature.

f. Army Federal Acquisition Regulation Supplement (AFARS). Issued by direction of the Secretary of the Army pursuant to FAR Subpart 1.3. The AFARS supplements and implements the DFARS and FAR.

g. Engineer Federal Acquisition Regulation Supplement (EFARS). EFARS is issued by the Corps of Engineers to implement FAR, DFARS, AFARS, and establish uniform policies for contracting and administration of Corps contracts.

1-4. Construction Bulletins (CB).

The Construction Bulletin (CB) is a means by which HQUSACE can provide current guidance to the FOA's in a timely manner. The CB does not replace any current regulations, but is a mechanism to enhance headquarters ability to provide responsive current guidance to the field. Each CB has an APPLICABILITY line (DIRECTIVE, GUIDANCE, or INFORMATION), and is sent hardcopy. CB's are numbered sequentially within the Calendar Year (e.g. 89-1), and expires automatically on 31 Dec, two years in the future (e.g. 31 December 1991). CB's do NOT replace ER's, EC's or EP's. They are used to improve HQUSACE'S responsiveness to current FOA issues and problems. An original CB should be maintained on file in all divisions, districts, and field offices. Copies for internal use can be made as necessary. If the guidance should be "locked in stone," it will be included in an appropriate ER. If the guidance is no longer necessary or appropriate, it will be allowed to expire.

1-5. **Definition of Terms.**

a. Contracting Officer. The Contracting Officer has authority to enter into, administer, or terminate contracts and make related contract determinations and findings. The CO is responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships.

b. Administrative Contracting Officer (ACO). The ACO (formerly referred to as Resident Contracting Officer) is an individual authorized by the Contracting Officer to administer a contract and execute modifications to that contract. The ACO's authorities to modify the contract and obligate the Government are limited to those defined in their certificate of appointment, as indicated in EFARS 1.602-1(100).

c. Contracting Officer's Representative (COR). The COR is a designated authorized representative of the Contracting Officer with authority to take all actions in connection with the administration of the contract with the exception of obligating the payment of money by the Government or authorizing a change in contract performance or completion time. The COR's specific authorities and limitations are limited to those defined in their letter of appointment as required by AFARS 42.90.

d. Chief of construction or construction operations division. At the district level, this term applies to the individual who is responsible to the district commander for the efficient organization, function, and execution of the military and civil construction program in the field and for the staff supervision of the field organization. The incumbent provides policy guidance and resources to area and resident engineers.

e. Area engineer. The area engineer is responsible for the supervision and administration of all construction contracts located within a set geographical area. The area engineer manages these projects directly, or by delegating responsibility to resident offices or project offices under his jurisdiction. The area office is an element of the district. The area engineer provides the staff supervision of the field organization in their area of control, as well as supporting management functions delegated by the District.

f. Resident engineer (RE). The resident engineer is the manager of the field office responsible to the area engineer and the District for the on-site administration and direction of one or more construction contracts. Area engineer or project engineer may be synonymous terms used under certain field conditions. "Resident engineer" as used in this pamphlet is intended to represent all of these individuals regardless of their title. The resident engineer may or may not have Administrative Contracting Officer (ACO) or Contracting Officer Representative (COR) authority. On contractual matters, resident engineers report directly to area engineers, district commanders, or deputy district commanders.

g. Using service or Using agency. The using service (e.g. Air Force, Army, Navy, Department of Energy) is any agency which occupies and ultimately accepts responsibility for the facility constructed under the administration of the area or resident office.

1-6. Resident Engineer Responsibilities.

It is important to recognize that establishing a good working relationship with our design and construction industry partners pays back many mutual benefits. The expertise, dedication, and professionalism that each party brings to the project team provides the basis for achieving our ultimate goal of providing our customers as quality product on time. The results which can be expected through good partnership are enhanced productivity, better quality, a safer job, fewer claims, reduced cost growth, and speedier construction.

The typical duties of a resident engineer include responsibility for the following:

- a. Management of the resident office and on-site supervision and administration of construction at an installation or project.
- b. May or may not have delegated ACO authority.
- c. Enforce compliance with all contracts assigned to the resident office within delegated authority.
- d. Understand procurement regulations (FAR system).
- e. Monitor contractor quality control (CQC) activities and take appropriate action with the contractor to assure compliance with the quality control clauses of the contract.

f. Prepare and implement a quality assurance (QA) plan to assure compliance with contract plans and specifications in accordance with regulations.

g. Supervise project progress and timely completion.

h. Ensure that all materials and equipment installed by the contractor meet the contract requirements.

i. Manage project funds.

j. Manage within approved S & I funding limits.

k. Safeguard the interests of the Government.

l. Recommend improvements in work which will result in total quality management and life cycle savings, deriving the recommendations from professional engineering experience and knowledge of construction procedures, methods, and materials.

m. Monitor and maintain safety standards, as required by EM 385-1-1, Safety and Health Requirements Manual, on all work under the resident engineers supervision.

n. Maintain and support an awareness of public relations and the public image of the U.S. Army Corps of Engineers (USACE).

o. Negotiate and issue modifications within the monetary limits stipulated in the authorization as the ACO.

p. Process contractor payment estimates promptly, after verifying their accuracy.

q. Assure accountability and security of all resident office property.

r. Manage a cost effective and efficient resident office.

s. Comply with DA and the local installation security requirements.

t. Manage and supervise the resident office and its personnel anticipating personnel needs as required.

u. Increase skills and capabilities of assigned personnel through appropriate training.

1-7. Responsibilities with Respect to Designs.

a. Biddability, constructibility, operability review. The resident engineer reviews all plans and specifications during the design period and prior to formal advertising. Comments are forwarded through proper channels to the designer for consideration and incorporation in the design, if applicable. The resident engineer is furnished feedback on the disposition of comments. A list of review items are in paragraph 6-2b of this pamphlet. ER 415-1-11, Biddability, Constructibility and Operability, is the governing regulation.

b. Design data. The resident engineer should request a copy of the design analysis or the engineering considerations for each contract under resident office supervision. The resident engineer or his staff should review each project with the designer either during or after the BCO review to make sure that all unique aspects of the project and/or site of work are known to the designer. A site visit to the project site prior to advertising is highly recommended. It is helpful to have the design representative discuss the project with members of the resident office staff.

c. Repetitive deficiencies. Information on repetitive deficiencies for the type of construction being performed may be obtained from the district or from the Construction Evaluation Retrieval System (CERS). CERS will provide feedback on project experiences collected during Headquarters, HQUSACE (CEMP-CE) design-construction evaluation team visits to project sites and from post completion and warranty inspections of facilities.

d. Differing site conditions. If a review of the contractor's correspondence and a review of field conditions indicate that changed conditions exist, the resident engineer should notify the district and prepare a statement of facts and recommendations on the situation.

e. Design improvement. The resident engineer should not hesitate to notify the district of conditions which seem to merit review. ENG Form 3078, Design or Project Deficiency Report and Recommendations, is recommended for design improvement suggestions.

f. Architect-Engineer Performance Evaluation. The resident engineer completes ENG Form 1421-R(Test), Sep 89 Performance Evaluation (Architect-Engineer) upon completion of construction. This is the resident engineers opportunity to evaluate the effectiveness of the design and provide feedback to the district and to other Corps offices on the capability, responsiveness, accuracy, and design quality provided by a particular A-E.

1-8. **Organization.**

a. Command channel. The established command channel for contractual matters is from the Commander, HQUSACE, to the division commander, to the district commander/contracting officer, to the area/resident engineer. For other than contractual matters, resident engineers usually report to the Chief of Construction Division. The resident engineer is responsible for all activities of the resident office.

b. Resident office organization. The customary organizational elements in the resident or area office are office engineering, contract administration, and quality assurance. The organization reflects project requirements and resources. The resident engineer continually reviews the organizations efficiency and makes recommendations to the Chief of Construction, if changes are necessary

1-9. **Contractor Relations.**

a. Ethics. The resident engineer and his staff occupy a position of public trust; therefore, they follow the highest standards of personal conduct in their relationships with contractors. The business ethics of all persons charged with administration and expenditure of Government funds must be above reproach. Many practices which are customary for private business are not exercised by Government employees. Accepting entertainment, gifts, or favors from anyone seeking or having business dealings with the Government is considered compromising to both parties. It is essential to retain public confidence in the integrity of business relations between the Government and private industry. Guidance is provided in FAR 3.101, Standards of Conduct, and AR 600-50, Standards of Conduct for Department of the Army Personnel. Further information on these requirements are available from each FOA'S Ethics Counselor or procurement division.

b. Government records and internal discussion. Access to, or release of, Government records, interdepartmental correspondence, and intradepartmental correspondence requires specific prior approval by the District Freedom of Information Officer under the "Freedom of Information Act." Differences of opinion among Government personnel should never be discussed in the presence of contractor representatives. Dissent among Government employees in the presence of contractor personnel may lead to claims, or in some instances, to Congressional inquiries. It is the responsibility of the resident engineer to assure that all resident office personnel understand the ramifications of such discussions.

c. Contract interpretation. Controversial items encountered while interpreting contract plans and specifications are clarified with the district office, as necessary, before being discussed with the contractor. Instructions and verbal agreements are confirmed by letter or memorandum of agreement and are signed by the resident engineer (as the COR) and the contractor's representative.

d. Contract performance. The resident engineer renders timely and unprejudiced decisions regarding the contractor's operations and gives the contractor the greatest possible latitude, within contract provisions, in the choice of equipment and methods. Equipment or methods advocated by the contractor for the work are not rejected if they fulfill contract requirements. However, deviations and/or changes to the contractual specifications, plans, and requirements should NOT be allowed. Should a contractor's methods or equipment endanger the completed structure or result in a major failure during construction, the contractor will be immediately warned in writing and the contracting officer will be notified by the most expeditious means.

e. Contractor's performance. The contract clauses require the contractor to either supervise the work in person or to have on the work site a competent superintendent empowered to act for the contractor. In the event the resident engineer determines that the contractor or the superintendent is unsatisfactory, the contractor will be promptly informed in writing. If corrective measures are not taken by the contractor, the facts, along with recommended actions, will be forwarded to the contracting officer.

f. Subcontractor relations. There is nothing contained in a contract which creates contractual relations between subcontractors and the Government.

The prime contractor is responsible for accomplishing all phases of the contract including coordinating subcontractor activities. The resident engineer makes every effort to establish and maintain professional and cooperative relations with the contractor. Each member of the resident engineer's staff should understand the scope of the resident engineer's authority in dealing with both the general contractor and subcontractor representatives. Controversial matters involving subcontractors should be discussed only with the prime contractor's authorized representative.

g. Contractor quality control. The resident engineer's staff must be aware that all dealings are conducted through the prime contractor. The resident engineers staff participates in preparatory and initial inspections in order to monitor CQC procedures since these procedures provide the basis for work placement in each phase of work. Follow-up inspections on a routine basis are more productive when preceded by joint contractor/USACE preparatory and initial inspections. Field instructions are given to the prime contractor's supervisor or CQC personnel, and recorded in the daily report not directly to the workmen, except when a safety hazard exists.

h. Claims. The resident engineer's decisions protect the Government's interest, but reflect fairness to the contractor. If controversial matters are not settled by mutual agreement on the job, the contractor may request a decision by the contracting officer. In such cases, the resident engineer furnishes a written report to the contracting officer covering all phases of the controversy. The resident engineer makes every reasonable effort to avoid claims, and when necessary, requests assistance from the district. In potential claim situations, the resident engineer makes a special effort to record and preserve all factual information. See paragraph 7-6j for further guidance.

1-10. Relations with the Using Service.

The extent and limitations of authority delegated to the resident engineer should be conveyed to the using service at the time of delegation by the district commander. The resident engineer must be prepared to discuss the project scope with authorized representatives of the using service. The resident engineer also provides advice and coordination with the using service on the following basic policies.

a. User changes. Army MCA & MMCA projects. When the using service wants to change the plans or specifications, it will be requested to initiate prompt confirming actions through channels. For MCA and MMCA funded projects (with the exception of production base support), a corporate group has been established to manage user originated changes that are elective or enhancement in nature. Requests for corporate group consideration will originate at the installation and be forwarded to the major command with information c consists of three members, each with distinctly defined roles. The major command member is responsible for adequate justification of the changes. The USACE division member is responsible for properly classifying the change and evaluating that change from the standpoint of schedule, cost, and DD Form 1391 scope. The HQUSACE member will evaluate the proposal from the standpoint of policy, regulatory and statutory constraints, and availability of funds. In some cases, recommendations of the corporate group will be elevated to the next higher level at HQUSACE, for resolution. The district is advised immediately of the request and provided with the comments and recommendations of the resident engineer.

b. Local services. The district commander has no local jurisdiction over rights-of-way, real estate, or the right of entry and exit into or over installation properties. Cooperation with local authorities is essential in closing roads and other areas, in erecting barricades, and in similar construction matters. Particular emphasis should be placed on establishing and maintaining close coordination with the installation commander, his DEH organization representatives, and all other affected installation agencies. For civil works projects, the district commander has local jurisdiction as provided by license and easements.

1-11. Life Cycle Project Management.

a. Civil Works. Engineer Regulation 5-2-1 provides policy, guidance and procedures on the implementation and utilization of the Life Cycle Project Management (LCPM) system within the US Army Corps of Engineers (USACE). This project management system pertains to planning, design, and construction for Civil Works (CW). This regulation is applicable to all HQUSACE elements and all field operating activities (FOA) having Civil Works responsibilities. All Civil Works projects will be managed, planned and executed under the LCPM system in accordance with the requirements in ER 5-2-1. Projects under \$5 million are not subject to upward reporting requirements unless otherwise directed. The objective of LCPM is to establish a system which focuses USACE's corporate leadership on the efficient implementation of quality projects within budget and on schedule.

b. Military and Support for Others. Life Cycle Project Management (LCPM) is in the implementation stage for Military and Support for Others work. Initial guidance and proposed regulations were distributed to all FOA's by letter, CEMP-M, dated 1 Feb 1990. LCPM implementation is a three phased process with full applicability scheduled for Feb 1991. The first phase will consist of one to three MCA projects per district with a PA of \$20 million or higher and/or projects as designated as sensitive. The second phase will include three to five projects per district. Phase three will include all Military and Support for Others work. Separate implementation guidance for LCPM will be provided for the Superfund and DERP programs.