MEMORANDUM OF UNDERSTANDING (LEVEL I)

BETWEEN
HEADQUARTERS UNITED STATES AIR FORCE
OFFICE OF THE CIVIL ENGINEER
AND
HEADQUARTERS UNITED STATES CORPS OF ENGINEERS
DIRECTOR OF MILITARY PROGRAMS

I. PURPOSE. This Memorandum of Understanding (MOU) is to provide guidance, define responsibilities, and establish procedures regarding design and construction management of the Air Force (AF) Military Construction (MILCON) Program.

II. EFFECTIVE DATE. This MOU becomes effective upon signature by the respective parties.

III. AMENDMENTS AND TERMINATIONS. The provisions of this MOU are continuous until such time applicable authorizations and/or responsibilities change. Amendments or revisions to this MOU may be proposed at any time by the organization having reason to recommend changes and incorporated herein on mutual consent of the MOU signatories. This agreement may be terminated by mutual consent of the MOU signatories or upon 90 days written notice by one or more parties to all parties of the MOU.

IV. AUTHORITY.

A. DODI 4270.5, Military Construction Responsibilities

B. AFR 89-1, Design and Construction Management


D. MOU Conference, Dallas Texas, 3 March 1989

E. Joint Air Force/Corps Retreat, 5-7 July 1989

V. DISAGREEMENT RESOLUTION. Resolution of all customer-agent disagreements will be made at the lowest possible management level. Any impasse will be elevated to the next command level for decision without unnecessary delay. The Air Force and Army partnership in strategic decisions and joint activities demands close teamwork throughout the life cycle of project management.

VI. PROGRAM EXECUTION GOALS. The AF will establish uniform execution goals that are applicable to all MILCON projects. The Major Command (MAJCOM) may establish special need dates for selected projects based on operational requirements.
VII. AIR FORCE AS AGENT. AF and Army Corps of Engineers (CE) agree that AF may assume agent responsibility for selected projects not to exceed 5% of the number of projects in each year’s MILCON program. Specific projects will be identified by the AF and coordinated with CE prior to requesting OSD approval in accordance with DODI 4270.5.

VIII. RESPONSIBILITIES AND PROCEDURES. This level I MOU establishes Headquarters level policy guide for the levels below HQ USAF and HQ USACE. Subordinate level MOUs may not violate the spirit or intent of this Level I MOU. Subordinate level MOUs may be developed using the attached Level II and III generics as a guide.

A. PRE-DESIGN.

1. CRITERIA TRANSFER. The AF is responsible to ensure that the Requirements and Management Plan (RAMP) is current, coordinated, and complete. Any discrepancies between the DD Form 1391, the Field Design Instruction (DI), and the RAMP will be resolved by the AF. The DI will be issued by the AF Design Manager (DM) normally by the January prior to program submission. RAMPs are due to the CE within 30 days of the DI. Late starting projects require special handling by the AF and CE to ensure all reasonable efforts are expended to meet AF design goals.

2. DD FORM 1391. The AF will provide the current DD Form 1391 with the RAMP for information and planning purposes. The AF is responsible for providing an updated 1391 to the CE that reflects the current approved cost and scope of the project.

3. 2807 NOTIFICATION. The AF makes 2807 Notification when required and advises the CE when notification is complete.

4. ACQUISITION STRATEGY. A Project Management Plan (PMP) is a subset of the RAMP and will be prepared for each project by the Project Management Team. It will include the strategic decisions on acquisition strategy. The detail will depend on size, complexity and priority. The CE and AF will jointly determine the project acquisition strategy and record these decisions in the PMP.

B. A-E SELECTION.

1. AIR FORCE INPUT ON CE IN-HOUSE DESIGN DECISION. The AF will participate in the decision making process on selection of projects for in-house design. However, it is the responsibility of the Air Force to provide sufficient in-house design candidate projects for the CE to meet their goals.

2. CLASSIFIED DESIGN. The CE, with AF participation in the decision making process, may utilize in-house forces for design of classified projects due to the complexity of acquiring an Architect-Engineer (A-E) designer with security clearances.
C. DESIGN SCHEDULE

1. RESOLUTION OF COST/SCOPE ISSUES DURING DESIGN. Project Definition (PD) and preparation of plans and specifications will normally be accomplished under a single contract administered by the CE. Preparation of the plans and specifications will be based on the DI and PD package. The AF has the responsibility of identifying project functional requirements in the RAMP and further defining these requirements during PD Phase. Potential scope variations will be brought to the attention of the AF by the CE.

2. COST ESTIMATE ACCURACY & SCOPE DECISIONS. Cost estimates reflect current construction costs and will be escalated to the mid-point of construction using current DOD escalation factors. The construction cost estimate will be prepared in accordance with current CE procedures and the format will be in agreement with current AF design guidance. Air Force rationale for disagreements with cost estimates will be reviewed and carefully considered for application. However, final cost estimate responsibility lies with the CE. The final decision on scope additives and deductives rests with the AF.

3. LOST DESIGN AND BREAKAGE REPORTING AND REVIEW. Lost design and breakage data will be provided by the CE District and furnished through the CE Division to the AF by line item.

4. EMERGENCY DESIGN AND CONSTRUCTION PROCEDURES. Ad hoc design teams composed of Air Force and Division/District personnel may utilize emergency authorities, procedures, and/or waivers, etc., to accomplish emergency design and construction. Timely justification to support special procurement, if required, is the responsibility of the AF.

5. EXECUTION TEAM LEADERSHIP. The Air Force will chair the PD stage joint activities; the Corps will chair joint activities from completion of PD through project financial close-out.

6. EXECUTION TEAM PROJECT REVIEW. The Air Force and Corps Design Project Managers will routinely reconcile project control elements (budget, costs, schedule, quality) by line item at least quarterly in joint reviews by the Project Management Team.

D. DESIGN CRITERIA.

1. USE OF STANDARD SPECIFICATIONS. Format and terminology of project specifications normally will follow Corps of Engineers Guide Specifications to ensure incorporation of DOD, as well as Air Force, construction criteria. Commercial standards will be used on a case-by-case basis as agreed to by the AF and CE in the PMP. Overseas construction is governed by country-to-country agreements.
2. ARCHITECTURAL COMPATIBILITY. The Host MAJCOM has final approval authority on exterior architectural compatibility issues. The Requiring MAJCOM has final approval on interior architectural issues.

3. IMPLEMENTATION OF AF ETLs AND CTLs. AF ETLs and CTLs are issued by HQ USAF/CEC and are coordinated with HQ USACE prior to distribution to AF and CE field elements. CE will comply with ETLs and CTLs in the design/construction of Air Force facilities.

4. CADD SYSTEMS - COMPATIBILITY. If CADD is mandatory for a specific design, the Air Force Design Instruction must include compatibility requirements. When not mandatory, the user of CADD is at the Designer’s option.

5. AIR FORCE REGULATION WAIVER AUTHORITY. The AF is responsible for providing written confirmation of waivers to AFRs.

6. WAIVER BY CE OF AF CRITERIA. Waiver of AF criteria by CE without AF approval is not authorized.

7. ACASS & CCASS, APPLICATION AND IMPLEMENTATION. Performance evaluations for both A-E and construction contractors will be completed by the CE District. The AF is encouraged to provide comments on contractor performance for the CE’s consideration during the evaluation process. Evaluations will be forwarded by the CE District to CE North Pacific Division for inclusion in the data bases (ACASS & CCASS). These evaluations are available for retrieval by other Government agencies for use in the A-E selection process and in determining construction contractor responsibility before contract award.

E. VALUE ENGINEERING (VE). The objective is to find areas where project life cycle costs can be reduced without a loss of quality in functional, aesthetic, operational, or maintenance related requirements. VE studies should be accomplished during the PD Phase.

1. VE GOALS. The AF will provide a list of projects that are approved for VE studies. The CE may recommend additional candidates or other design stages where VE would be beneficial. Funds for VE studies will be requested and provided in accordance with procedures of paragraph VIII. G. of this MOU.

2. VALUE ENGINEERING CHANGE PROPOSALS (VECP). VECP are considered construction agency change requests and must be approved by the AF before they may be executed as a modification.
F. ENVIRONMENTAL CONSIDERATIONS

1. PERMITS. At the Pre-Project Definition Conference, the known environmental issues surrounding the project will have been identified in the RAMP. The CE will require the designer of record to review the proposed project against the current governing environmental regulations and prepare permit applications as required. The AF is responsible for submission of permit applications and obtaining permits.

2. CONTAMINATED SITES. (Including Asbestos Abatement).
   a. Upon request and receipt of funding, the CE will be responsible for environmental assessment, design, and cleanup of hazardous/toxic waste contamination at proposed construction sites. The CE will furnish verification to the DM for necessary review and certification that the proposed site is contamination free.
   b. Upon request and receipt of funding, the CE will investigate and design remedial action cleanup for the Air Force Installation Restoration Program (IRP), hazardous/toxic waste management sites, and asbestos abatement sites.

G. DESIGN FUNDS.

1. BUDGET. The Air Force Design Manager (DM) and the CE Project Manager (PM) will jointly develop a project design funds budget for each active project. The design funds budget is the estimated total design funds requirement for the project through construction award. This requirement is coordinated with the Requiring MAJCOM and serves as the basis for design funds requests. The design funds budget includes requirements for all design services including value engineering (if not accomplished in PD), comprehensive interior design, energy budget analyses, agent in-house expenses, and other services as requested by the Requiring MAJCOM.

2. TRANSFER. The CE PM will request project design funds through the Air Force DM. Requests will normally be by quarter or design phase. Requests will be broken out by in-house and A-E costs. After requested funds are validated by the Requiring MAJCOM, HQ USAF will instruct HQ USACE to issue funds to the appropriate CE District. The HQ USAF instruction will be by project and MAJCOM Budget Authorization Account Number (BAAN). HQ USACE will issue design funds for both in-house and A-E costs directly to the CE District by Funding Authorization Document (FAD).

3. RETURN/REALLOCATION OF EXCESS FUNDS. The CE PM will promptly identify funds in excess of actual needs and notify the appropriate Air Force DM of funds availability for reallocation.
H. CONTRACT PACKAGING.

1. PURCHASE OF FURNITURE. Loose furniture purchases will not be included in construction contracts.

2. CONTRACT/PROJECT PACKAGING. The AF will identify all design or construction projects to be packaged into a single contract early in the design cycle. The CE will participate in the decision making process for packaging projects. This strategic decision is part of the PMP.

3. CONSTRUCTION PERFORMANCE TIME. The AF will identify the required Beneficial Occupancy Date (BOD) in the RAMP. The PM in the CE District will determine the reasonable construction performance period in the PMP prior to advertising and whether extraordinary measures are required to meet BOD. The CE and AF will jointly work to attain the shortest economically feasible construction schedule. If an expedited construction schedule is required, the CE will request AF to obtain appropriate approval. The CE will include the construction performance time in the bid package.

4. UP-FRONT DETERMINATION OF CONTRACT OVERHEAD AND EXTENDED OVERHEAD. The CE and AF will jointly investigate and employ, if authorized, various contracting techniques for up-front determinations of contractor overhead and extended overhead (i.e. the Estimated Total Cost Method).

I. PROJECT MANAGEMENT.

1. USE OF THE DESIGN A-E OR OTHER CONSULTANTS DURING CONSTRUCTION. The CE may include in A-E contracts the option for site visits during construction. The CE will review each project and use consultant services when special expertise is needed. The funding source will be jointly determined by the AF and CE.

2. TITLE II - SURVEILLANCE DURING CONSTRUCTION. The need for Title II services will be jointly determined by the Project Management Team based on an evaluation process considering manpower, monies, level of expertise and timing of the project within existing workload requirements. The source of funding will be jointly determined by the AF and CE.

3. AREA/RESIDENT ENGINEER OFFICE SPACE. Suitable office space will be provided by the AF either from project funds to build or lease temporary facilities or from existing space on base. Construction of permanent facilities may be justified when a long term presence is anticipated. Permanent facilities funding must be worked out well in advance by the AF and CE, particularly when MILCON funds are to be used. Where this long term presence is primarily in direct support of the AF
program, the AF encourages the programming and funding of such facilities with MILCON or OMAF funds.

4. EXECUTIVE REVIEW GROUP, INTENSIVE MANAGEMENT. For projects requiring intensive management, the AF and CE will establish a special management team as described in the PMP. Special goals and procedures will be established for the team in the PMP. The AF will identify the format and requirement for any management briefing charts.

5. SMALL AND DISADVANTAGED BUSINESS GOALS AND SELECTION OF CANDIDATE PROJECTS. The CE Contracting Officer is responsible for complying with the laws and regulations concerning the 8(a) and SDB programs. Goals are negotiated annually between DOD and SBA. The CE will assure AF goals and objectives are considered in applying these rules. The AF will provide the CE with a list of projects the AF considers unsuitable for execution by an 8(a) or SDB contractor. This list will not exceed fifty percent of the Air Force MILCON program. The AF share of the SDB/8(a) goals may be selected by the CE from the remaining projects.

6. INTEGRATED PROCUREMENT OF MULTIPLE FACILITIES AND SYSTEMS ACROSS SITES AND FYs. The AF and CE will jointly review certain programs for special acquisition procedures. Some programs may call for the same design to be constructed at several bases and it may be desired to have a single designer for the repetitive facilities. In situations that cross District boundaries, within the same CE Division, the CE District with the greater experience with this type facility may be designated as design agent. This is subject to approval by the CE Division commander. Situations that involve different CE Divisions require inter-divisional MOUs and HQ USACE approval. Some programs such as mission beddowns may have facilities funded in subsequent FYs. When such projects are identified early enough and it is mutually agreeable, the same designer may design each phase.

7. A-E RESPONSIBILITY. The CE reviews all construction modifications for design errors and omissions. Design errors or omissions resulting in damage to the Government are investigated relative to the A-E’s contractual responsibilities. The CE will provide the AF with a copy of the CE periodic reports and the AF may attend A-E liability review board meetings as an observer for highly visible, sensitive projects.

8. JOINT ACCESS TO CUSTOMER-AGENT DATA BASE SYSTEMS PDC/AMPRS. Establishment of procedures to facilitate joint use of PDC and AMPRS data is encouraged.

9. LINE ITEM REVIEWS. The CE and AF support participation in joint line item reviews to the maximum extent practicable at all organizational levels at least quarterly unless mutually agreed otherwise.
10. PERIODIC CUSTOMER-AGENT VISITS. The CE District Commander should visit each base in his district at least quarterly.

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J. CONSTRUCTION CONTRACT AWARD.

1. AWARD AUTHORITY. The AF DM provides project award approval; HQ USACE provides contract award authority.

2. BID PROTEST RESOLUTION. The CE will resolve all protests in the shortest possible time and keep the AF updated on the status of protests. The option to proceed with award in the face of a protest will be discussed between the AF and CE.

K. CONSTRUCTION SCHEDULE.

1. CBD ANNOUNCEMENT. The CE will issue the announcement prior to design completion when jointly agreed between CE and AF if project advertising approval has been given by the AF.

2. BENEFICIAL OCCUPANCY DATE (BOD). Meeting the need date is a commitment to the customer. The CE will make every reasonable effort to ensure construction is completed by the AF need date. The CE will inform the AF Construction Manager (CM) of any potential actions that may impact meeting the required BOD.

L. CHANGE ORDERS.

1. APPROVAL AND EXECUTION OF CHANGE ORDERS. The CE will approve changes to correct errors/omissions in design or to accommodate unforeseen site conditions and will fund these changes from the project contingency funds. The CE will periodically provide AF status of finalized contract mods and pending changes/claims. The AF CM will validate and approve user changes and the use of management reserve funds for the changes.

2. TIME SENSITIVE MODIFICATIONS. Any CE or AF change request involving the addition/alteration/deletion of work in progress or soon to be accomplished will be given highest priority. Modifications will be handled in such a way as to minimize demolition and remedial work.

3. RESPONSIBILITY FOR PROPRIETY OF FUND SOURCE. The Air Force CM is the sole authority on approval to use management reserve funds unless authority has been delegated. It is the responsibility of the CE Comptroller to justify the use of fund types other than those utilized in the original contract.
4. TIME EXTENSIONS - WEATHER DAYS. The CE will make monthly evaluations of delay due to unusually severe weather and a quarterly modification will be executed to grant time if entitlement is warranted. Overseas construction may use different procedures in accordance with country-to-country agreements.

M. CUSTOMER PARTICIPATION IN NEGOTIATIONS.

Air Force Design Managers/Construction Managers (DM/CM) are encouraged to participate in prenegotiation planning meetings to explain/present Air Force objectives, policies, constraints, recommended strategy and relevant facts to assist in establishing prenegotiation objectives. During actual negotiations, the Air Force DM/CM may participate as observers. As with other negotiating team members, participation by the Air Force DM/CM will be at the discretion of the Contracting Officer.

N. CLAIMS MANAGEMENT

The CE is responsible for management of all claims in a timely and cost effective manner; the Contracting Officer is also responsible for rendering fair and reasonable decisions pertaining to both merit and quantum. The AF may possess information which is germane to the claim. The CE will provide the AF an opportunity to comment on significant pending claims and will consider information which the AF may provide before making a contracting officer decision. The AF will provide such information in a timely manner.

O. CONSTRUCTION FUNDS.

1. TRANSFER. MILCON funds are released by HQ USAF to HQ USACE for award of contracts, increases in contracts, real estate acquisition and purposes specified in Congressional Authorization and Appropriation Bills. HQ USACE will distribute the funds by Funding Authorization Document (FAD) to the appropriate CE District.

2. RETURN OF EXCESS FUNDS TO HEADQUARTERS. The CE District will promptly identify contingency funds in excess of actual project needs. The AF CM will identify management reserve funds excess to project needs. When surpluses are identified, the CE District will initiate revoking directives to HQ USACE for return of funds to HQ USAF.

3. FINANCIAL CLOSE-OUT. The joint AF-CE goal is to complete financial close-out on all CONUS projects within six (6) months of facility acceptance and all OCONUS projects within twelve (12) months. Contingency funds will not be held in reserve by the CE for pending claims where the contracting officer has found no merit for entitlement. The CE will not retain funds for settlement of claims in excess of estimated quantum amounts for those claims determined to have merit.
P. SUBMITTAL REVIEWS.

1. SHOP DRAWINGS AND SUBMITTALS. The AF will identify submittals for review for which they have special expertise. The AF and CE may jointly agree to use Title II A-E services for review of shop drawings. The CE will, in coordination with the AF, assure a mutually acceptable resolution to all comments.

2. SUBSTITUTIONS. The CE will consult with the AF regarding proposed substitutions that may change the aesthetics or functional use of facilities.

Q. APPENDICES. The following appendices are attached:

1. Appendix A - Level II Generic MOU.

2. Appendix B - Level III Generic MOU.

IX. AGREEMENT.

We, the undersigned, as duly authorized representatives of our respective organizations, do agree to support and defend the provisions of this document as presented this ___8th___ day of ___February___, 1991.

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JAMES W. RAY            JOSEPH A. AHEARN
MAJOR GENERAL, USA      MAJOR GENERAL, USAF
DIRECTOR MILITARY PROGRAMS   THE CIVIL ENGINEER