



# Department of Defense DIRECTIVE

NUMBER 4270.36

May 17, 1997

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USD(A&T)

SUBJECT: DoD Emergency, Contingency, and Other Unprogramed Construction Projects

- References:
- (a) DoD Directive 4270.36, "DoD Emergency, Contingency, and Other Unprogramed Construction," May 16, 1991 (hereby canceled)
  - (b) Title 10, United States Code
  - (c) DoD Directive 1225.7, "Reserve Component Facilities Programs and Unit Stationing," March 18, 1996
  - (d) DoD 7000.14-R, "Department of Defense Financial Management Regulation," Volumes 2A and 2B, "Budget Presentation and Formulation," July 1996, authorized by DoD Instruction 7000.14, November 15, 1992

## 1. REISSUANCE AND PURPOSE

This Directive reissues reference (a) to:

1.1. Update policy and responsibilities for DoD emergency, contingency, and other unprogramed construction projects.

1.2. Implement Sections 2803, emergency construction; 2804, contingency construction; 2805, unspecified minor construction; 2808, construction authority during a declaration of war or national emergency; and 2854, restoration or replacement of damaged or destroyed facilities, of Chapter 169 of reference (b).

## 2. APPLICABILITY AND SCOPE

This Directive applies to:

2.1. The Office of the Secretary of Defense, the Military Departments (excluding National Guard and Reserve components), the Chairman of the Joint Chiefs of Staff, the Combatant Commands, and the Defense Agencies ((hereafter referred to collectively as "the DoD Components.") (National Guard and Reserve component construction authorities are in Chapter 1803 of reference (b) and implemented by reference (c)).

2.2. The authority and restraints for establishing or developing installations and facilities not specifically authorized by a military construction authorization act or other legislation, but authorized on an exigent basis or under a standing United States Code.

### 3. POLICY

It is DoD policy that:

3.1. Construction projects should normally be justified and funded through the planning, programing, and budgeting process. This Directive addresses authorities in Sections 2803, 2804, 2805, 2808, and 2854 of Chapter 169 of 10 U.S.C. (reference (b)) for the accomplishment of projects that are not included in the normal planning, programing, and budgeting process.

3.2. Reprograming requests to fund projects under Sections 2803, 2805, and 2854 of reference (b) shall be submitted to the Under Secretary of Defense (Comptroller). Reprograming is not necessary for projects under Sections 2804 and 2808 of reference (b).

3.3. The Secretary of Defense retains approval authority of projects under Sections 2804 and 2808 of reference (b). Projects under Sections 2803, 2805, and 2854 of reference (b) may be approved by the Secretary of a Military Department or that Secretary's designee. The Secretary of Defense delegates approval authority for Defense Agency projects under Sections 2803, 2805, and 2854 of reference (b) to the Director of the Agency or that Director's designee.

3.4. Projects shall be considered for funding under authorities available to the Heads of the DoD Components before being considered for funding under Secretary of Defense authority.

#### 4. RESPONSIBILITIES

4.1. The Under Secretary of Defense for Acquisition and Technology shall:

4.1.1. Notify the Office of Management and Budget when authority of Section 2808 of reference (b) is required in future Executive Orders.

4.1.2. Coordinate requests for use of authorities of Sections 2804 and 2808 of reference (b).

4.2. The Heads of the DoD Components:

4.2.1. May carry out military construction projects within the approval authorities in subsection 3.3., above, after applicable congressional notification under authority of Sections 2803, 2805, and 2854 of reference (b).

4.2.2. Shall forward requests for contingency construction under Section 2804 of reference (b) to the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology (USD(A&T)). Include a DD Form 1391, "Military Construction Project Data," with estimated design completion and construction award dates, completed in accordance with Chapter 6, Volume 2, of DoD 7000.14-R (reference (d)); a statement of why the authority provided under Section 2803 of 10 U.S.C. (reference (b)) shall not be used; a statement of need for the project from the applicable Combatant Command; and a statement that deferral for inclusion in the next military construction authorization act shall be inconsistent with national security or the national interest.

4.2.3. Shall forward requests for construction supporting war or national emergency under Section 2808 of reference (b) to the Secretary of Defense through the USD(A&T) and indicate why the facility is needed; include a DD Form 1391, with a description and cost estimate.

4.2.4. Shall notify the USD(A&T) when the need for authority under Section 2808 of reference (b) is anticipated.

4.3. The Chairman of the Joint Chiefs of Staff shall:

4.3.1. Notify applicable committees of Congress of exercise-related minor construction outside the United States under the authority of Section 2805 of reference

(b).

4.3.2. Assign priority among competing requests from the Combatant Commands for joint exercise-related minor construction authority under Section 2805 of reference (b).

4.3.3. Approve projects and provide allocated funds to applicable Combatant Commanders for exercise-related construction.

4.3.4. Notify the USD(A&T) when the need for authority under Section 2808 of reference (b) is anticipated.

4.3.5. Assign priority among competing requests from the Combatant Commands for use of authority under Sections 2804 and 2808 of reference (b) and forward them to the USD(A&T).

4.4. The Commanders of the Combatant Commands shall:

4.4.1. Verify need for project requests for use of authority under Section 2804 of reference (b), and forward to the USD(A&T) through the Chairman of the Joint Chiefs of Staff.

4.4.2. Assign priority among competing requests for joint exercise-related minor construction authority under Section 2805 of reference (b) and forward them to the Chairman of the Joint Chiefs of Staff.

4.4.3. Coordinate and assign priority to requests for use of authority under Section 2808 of 10 U.S.C.(reference (b)) and forward to the USD(A&T) through the Chairman of the Joint Chiefs of Staff.

## 5. EFFECTIVE DATE

This Directive is effective immediately.



John P. White  
Deputy Secretary of Defense