

DEPARTMENT OF THE ARMY
PACIFIC OCEAN DIVISION, CORPS OF ENGINEERS
FORT SHAFTER, HAWAII 96858

PODR 415-1-6

PODDC/PODCO

Regulation
No. 415-1-6

18 April 1984

Construction
CONSTRUCTION UTILIZING NONAPPROPRIATED FUNDS

1. PURPOSE. To prescribe the policies of the Division Commander and provide guidance and instructions in connection with construction financed with nonappropriated funds.

2. APPLICABILITY. This regulation applies to the Pacific Ocean Division and all Districts.

3. REFERENCES.

- a. AR 210-55
- b. AR 230-1
- c. AR 415-36
- d. ER 37-3-7
- e. ER 37-345-10
- f. ER 1180-1-1

4. GENERAL. These policies are designed to eliminate the possibility of embarrassment to the United States Government, its contracting officers, and others involved in the acceptance, authorization, award, supervision and administration of projects using nonappropriated funds. Basically, it is desired that the same sound contractual, financial and administrative practices relating to construction with appropriated funds be applied to construction activities financed with nonappropriated funds. This regulation applies only to military construction activities; it does not apply to contributed or advanced funds under the Civil Works Program which are covered in ER 37--2-10.

5. FINANCIAL ASPECTS OF CONSTRUCTION UTILIZING NONAPPROPRIATED FUNDS.

a. Nonappropriated funds are used to finance or reimburse the Districts for design and construction of facilities contributing to the morale, welfare, and recreational activities of military and civilian personnel of the Armed Forces. Such funds are made available by major command welfare funds, officers and noncommissioned officers open mess funds, etc., through command channels or through authorized boards or councils.

b. Laws of the United States and regulations of the Department of the Army prohibit officers and employees of the United States from making or authorizing the creation of obligations or expenditures under any appropriation or fund in excess of the amount available. Such officers or employees will not involve the Government in any contract or other obligation, for the

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payment of money for any purpose, in advance of appropriations made for such purposes, unless such contract or obligation is authorized by law. (Title 31 USC Sec. 1517 and AR 37-20)

c. While the above provisions are interpreted to relate to Federal appropriations and the various working, revolving and trust funds, the underlying principles of good fiscal administration are equally applicable to nonappropriated fund construction activities.

6. FUNDING PROCEDURES. The following actions will be taken in connection with nonappropriated fund projects which District Commanders are requested to accomplish.

a. The automatic reimbursable concept is applicable only to the financing of POD in-house costs (i.e., E&D, S&A, ODC, EDC). Funding for that portion of the NAF project related to award of a contract will utilize procedures similar to those involving direct citation of customer funds. "NAF" will be utilized in that portion of any contractual instrument requiring an appropriation/accounting classification. The paying office address of the ordering NAF activity is to be used where "Payment to be made by" is required.

b. The District Commander will obtain assurance in writing from the Command Welfare Fund Custodian or, for individual nonappropriated fund activities, from an official body such as the Board of Governors or Fund Council, that funds in a stated amount for a designated phase of the work (such as design) or for the entire project will be available for reimbursement of district costs upon presentation of a bill on SF 1114 or similar form acceptable by the NAF activity. The written assurance should state that the NAF activity will make payment directly to the contractor/vendor. The financing of POD in-house costs may be made by separate reimbursable order or by certifying that such funds are available as a part of the written assurance. This assurance should be accompanied by an extract of minutes of a meeting of a board, council or other body authorizing the assurance.

c. To assist nonappropriated fund officers in managing funds for reimbursement of costs, the District Commander will furnish the custodian or other designated representative a projected schedule of fund requirements. This schedule will be revised as often as necessary to provide realistic estimates.

d. Nonappropriated funds construction is not classified as Military Construction and is therefore exempt from the Corps-wide uniform rate. Actual costs for S&A must be charged.

7. CONTRACTUAL ASPECTS OF NONAPPROPRIATED FUNDS CONSTRUCTION.

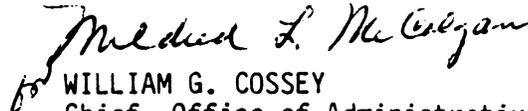
a. Contract Forms. Division approval will be required for any deviation in the use of standard forms for contracting, except that all references to "United States Government," "Secretary of the Army," "Secretary" and "Chief of Engineers" will be deleted and contracts will be executed by a Contracting Officer as "agent" for the fund concerned.

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b. Claims, Disputes, and Appeals. The procedures and policies established by Section 71 of ER 1180-1-1, Contract Claims and Appeals, under appropriated funds contracts, will be followed insofar as feasible and appropriate.

FOR THE COMMANDER:


WILLIAM G. COSSEY
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