

DEPARTMENT OF THE ARMY
Pacific Ocean Division, Corps of Engineers
Fort Shafter, Hawaii 96858-5440

PODR 415-345-2

CEPOD-CO

Regulation
No. 415-345-2

27 February 1989

Construction
TRANSFER AND WARRANTIES

1. **PURPOSE.** To prescribe procedures for the transfer of military construction to using services.

2. **APPLICABILITY.** This regulation is applicable to all elements in the Pacific Ocean Division (POD).

3. **REFERENCES.**

- a. AR 420-17
- b. AR 415-11/AFR 88-3
- c. AFR 88-9
- d. ER 415-345-38
- e. ER 735-1-1
- f. EP 415-1-260
- g. PACNAVFACENGCOCOM INST 17321.3a

4. **DEFINITIONS.**

a. **Joint Occupancy.** Facilities are not suitable for beneficial occupancy. The construction contractor has major work remaining but construction has reached the point where the using service can accomplish urgent items of their work concurrently with completion of construction.

b. **Beneficial Occupancy.** Facilities are usable for their intended purpose. Construction has reached the point where the facilities may be occupied or used by the using service with little interference, restrictions, or inconvenience to the construction contractor in completing the construction.

c. **Final Acceptance.** Facilities are complete and in accordance with terms of the contract, except for known construction deficiencies. Agreement has been reached on the time limit for correction of construction deficiencies, subject to contract terms and agreeable to the using service. The using service has full accountability and maintenance responsibilities for the facilities.

d. **Substantially Complete.** Facilities are complete, usable, and in accordance with terms of the contract, except for known construction deficiencies. The facilities will function as intended.

This regulation supersedes PODR 415-345-2, dtd 18 January 1985.

e. **Memorandum of Agreement (MOA).** An agreement between the applicable element of POD as Construction Agent and its corresponding user(s) as it pertains to the Transfer of Construction and implementation of the warranty provisions of the construction contract and warranty inspections.

f. **Warranty Inspection.** A joint user and Corps inspection conducted at the four- and nine-month period after transfer to identify and correct construction defects, to identify and initiate corrective action for design defects and to identify defects resulting from improper operation and/or maintenance.

g. **Using Service.** Agency that is responsible for the maintenance and upkeep of the completed facility.

5. TRANSFER INSPECTION.

a. **Joint or Beneficial Occupancy.** When joint or beneficial occupancy is requested by the using service, the construction representative and/or the area/resident engineer, using service, and construction contractor will hold an inspection to reach agreement on work remaining to be done and to develop a working plan for such occupancy. The status of uncompleted work will be recorded for the protection of the contractor and the Government and to preclude possible future disputes.

b. **Prefinal.** When construction is substantially complete, a prefinal inspection will be held to identify and list construction deficiencies and to determine when the facilities, or usable increments thereof, will be ready for final acceptance inspection. Area/resident engineers will notify the using service well in advance of the inspection date. Quality Assurance Branch/Technical Section personnel will participate in the inspection as required to provide necessary technical assistance. The completion date for the contract will be the day that the Government accepts the facility as substantially complete with/without deficiencies.

c. **Final Acceptance.** Before this inspection is scheduled, full agreement should be reached by the area/resident engineer and using service on the correction of all known construction deficiencies. Area/resident engineers will assure that the using service is given advance notice of the inspection date so that their representatives can attend. Generally, Army agencies require an advance notice of 10 days and Air Force agencies require 16 days. The existence of construction deficiencies, when acknowledged on DD Form 1354 in the prescribed manner, is not justification for delay of final acceptance transfer. Using services are required to accept completed work when determined by the construction agency to be in accordance with terms of the contract documents (AR 415-10 and AR 415-11/AFR 88-3).

6. **OCCUPANCY OF FACILITIES.** Area/resident engineers will not permit facilities to be occupied until the required transfer documents have been signed by the using service (paragraph 7 below). All transfer documents should be prepared in advance of the Final Acceptance inspection and presented to the using service representative for signature upon completion of the inspection. Due to the internal procedures employed by each using service, the using service representative may not be prepared to sign the transfer documents at the time of final inspection (i.e. DD Form 1354 needs to be reviewed by Real Property personnel, using service representative at the inspection does not have authority to sign DD Form 1354, etc.). In this case, the option of using the "Interim Transfer of Construction" letter (Appendix A) should be used to document using service

acceptance pending signing of the DD Form 1354. Upon receipt of the signed transfer documents (either DD Form 1354 or Interim Transfer of Construction, as applicable), keys to all locks will be delivered to the using service (paragraph 8 below).

7. TRANSFER DOCUMENTS.

a. **Joint or Beneficial Occupancy.** Joint or beneficial occupancy of facilities will be documented by an acceptance receipt as shown in Appendix B. Within five working days after joint/beneficial occupancy, a signed copy of the acceptance receipt will be sent to the Contracts Branch (CEPOD-CT-C, CEPOF-CT-C or CEPOJ-CT-C, as applicable), for inclusion in the record file of transfer documents. When the facilities are completed, final acceptance transfer documents will be accomplished (paragraph 7b below).

b. Final Acceptance.

(1) The transfer documents include:

(a) DD Form 1354 (Transfer and Acceptance of Military Real Property) (Appendix C). Preparation of DD Form 1354 is to be completed by updating the draft DD Form 1354 prepared by the designer during the final design phase of the project. Engineering Division will provide the draft DD Form 1354 prior to award of the construction contract. Since the final costs normally are not known at this time, the cost shown on the DD Form 1354 will be the best available estimate at time of preparation. When the final costs of construction are known, the Contracting Officer will furnish those costs on a final DD Form 1354.

(b) Real Property Record.

1 Army. DA Form 2877 (Real Property Record) is required for new construction only. It is not required for alteration, extension, deletion or rehabilitation of existing facilities. Instructions for preparation of this form are given in AR 420-17.

2 Air Force, Navy and Marine Corps. Real property record forms are not required. However, DD Form 1354 will provide sufficient detail and supporting data to allow preparation of such forms by their personnel.

(c) DD Form 1149 (Shipping Document) - Installed Building Equipment List and Equipment in Place List (Appendix D).

(d) Notice of Implementation - Warranty of Construction Clause. This is a copy of the letter signed by the contracting officer or resident contracting officer, as appropriate, which notified the prime contractor that the using service will represent the Government for implementation of the contract warranty clause. This letter will be furnished the using service upon transfer for final acceptance of the construction work completed.

(2) The transfer documents will be prepared in accordance with instructions given in AR 420-17 and Appendixes C and D of this regulation. Documents will be distributed (as enclosures to a Transfer of Construction letter - Appendix E) to the using service at final acceptance inspection and to Contracts Branch (CEPOD-CT-C, CEPOF-CT-C or CEPOJ-CT-C, as applicable), after final acceptance inspection:

<u>Transfer Document</u>	<u>Using Service</u>	<u>*Contracts Br</u>	<u>**Military Accounting Sec</u>
(a) DD Form 1354 (Transfer & Acceptance of Military Property)	Original & 2 copies	1 signed copy	2 signed copies
(b) DA Form 2877 (Real Property Record) (For Army transfers - new construction only)	Original	NR	NR
(c) DD Form 1149 (Installed Building Equipment List & Equipment in Place List)	Original & 1 copy	1 copy	NR
(d) Notice of Implementation Warranty of Construction Clause (Letter)	1 copy	1 copy	NR

* As applicable. The office responsible for the official contract file.

** As applicable. The office responsible for reporting final costs.

(3) For transfers of additional work, repairs, and alterations accomplished under small purchase procedures (under \$25,000) or repairs and alterations accomplished under construction contracts, a separate DD Form 1354 will be prepared only if the work performed is of the type that must be recorded separately by the using service, such as changes in physical capacity, units of measure, or description of the property. Work which need not be recorded separately will be transferred to the using service by a letter of completion which will include:

(a) Description and cost of work accomplished. (Small purchase and construction contract transfers)

(b) Serial number of original DD Form 1354 to which the work pertains. (Small purchase transfers)

(c) Contract number, work order number, and appropriate information about contract warranty provisions. (Construction contract transfers)

In any case, transfers will be coordinated with using services to determine their needs. A copy of each letter of completion sent to using services will be furnished to Contracts Branch (CEPOD-CT-C, CEPOF-CT-C or CEPOJ-CT-C, as applicable), to Military Accounting Section (CEPOD-RM-FM, CEPOF-RM-F or CEPOJ-RM-F, as applicable), and to Construction-Operations/Construction Division (CEPOD-CO, CEPOF-CD or CEPOJ-CD, as applicable).

8. DELIVERY OF KEYS. Upon receipt of signed transfer documents or Interim Transfer Letter as applicable, from the using service, the keys for each lock will be delivered to their representative. The keys will be tagged to show lock schedule date, building number or designation, and door opening. A list of the keys, with written acknowledgment of receipt by the using service, will be sent to Contracts Branch (CEPOD-CT-C, CEPOF-CT-C or CEPOJ-CT-C, as applicable), for inclusion in the record file of transfer documents.

9. **DELIVERY OF SPARE PARTS AND SPECIAL TOOLS.** If the contract requires the contractor to furnish spare parts and/or special tools, they will be delivered to the using service by the acceptance date of the facilities. A list of the parts and/or tools, with written acknowledgement of receipt by the using service, will be sent to Contracts Branch (CEPOD-CT-C, CEPOF-CT-C or CEPOJ-CT-C, as applicable), for inclusion in the record file of transfer documents.

10. **PROCEDURES AFTER TRANSFER.** As soon as practicable, but not later than 30 days after acceptance of the completed facility, except as noted in subparagraph 10d, the using service will be furnished the data set forth below. Other procedures may be arranged with the using service for earlier transmittal of the data required below.

a. One set of reproducible "as-built" drawings including the project site plans.

(1) For design originating in the field, the "as-built" drawings will include the original drawings modified to show "as-built" conditions.

(2) For design based on OCE standard drawings, one set of reproducible prints will be furnished, modified to show "as-built" conditions.

b. One set of final approved shop drawings.

c. Two copies of a list showing the make and model number of each major piece of equipment with spare parts lists and manufacturers catalogs for the equipment. The equipment for which this information will be furnished will be determined by mutual agreement with the using service.

d. Two sets of comprehensive operating and maintenance instructions for use by operating personnel, to include record sets of wiring diagrams, piping layouts, valve charts, valve tags, color codes for wiring and piping and spare parts catalogs. This information will be made available not later than the date the using service is to assume maintenance and operating responsibilities for the entire facilities, or a portion thereof. Spare parts data will be forwarded as soon as possible subsequent to the procurement of equipment in order to give the using service time to obtain spare parts. This will include equipment manufacturer's recommended spare parts list and other data necessary for procurement of spare parts. Maintenance and operating instructions for fire protection, communications systems, and safety control equipment will be provided if such equipment is furnished. Where practical, a copy of the maintenance instructions will be posted on walls adjacent to the equipment.

11. **CORRECTION OF CONSTRUCTION DEFICIENCIES.** Area/resident engineers will maintain a suspense system for follow-up action to assure construction deficiencies listed on DD Form 1354 are corrected as soon as possible.

12. **WARRANTY PROCEDURE.**

a. The Division/District Chief of Construction Division is responsible to:

(1) Prepare an MOA with his user counterpart for signature by the responsible commanders that describes procedures, clarifies shared functions and assigns responsibilities necessary to implement the warranty provisions of the construction contract and the warranty inspections.

(2) Provide assistance to the user in implementing the warranty provisions after transfer of warranty. In controversial cases make recommendations for resolution to the District/Division Commander.

(3) Compile and disseminate the warranty status of completed projects through their warranty period.

(4) Schedule joint user and Corps warranty inspections at the four and nine month periods after transfer. Warranty inspections will be conducted for projects for which significant benefits can be derived such as:

- (a) Technically complex projects.
- (b) Prototype construction.
- (c) High command interest or high visibility projects.
- (d) Projects which have experienced maintenance calls during warranty period.
- (e) Projects selected by the user.

(5) Prepare and provide a report to the user that identifies each defect and proposes a course of corrective action. A copy of this report will be furnished to Engineering Division.

(6) Initiate appropriate action for the correction of construction deficiencies.

(7) Prepare and provide final report within 90 days of the warranty inspection that summarizes actions taken and identifies responsibility for actions not completed. A copy of the final report will be provided to Engineering Division and the user.

b. The Division/District Chief Engineering Division is responsible to:

(1) Provide technical expertise upon notification by the related Chief of Construction to participate in the warranty inspection.

(2) Initiate corrective action as appropriate and report status of those actions to Construction Division.

FOR THE COMMANDER:

- 5 Appendices
- A - Interim Transfer of Construction
- B - Acceptance Receipt (JOD/BOD)
- C - Instructions, DD Form 1354
- D - Instructions, DD Form 1149
- E - Transfer of Construction Memorandum

DISTRIBUTION: (List 88-1)
B, C


ARLOF D. HEWSON
Chief, Information Management Office

APPENDIX A
INTERIM TRANSFER OF CONSTRUCTION
(Sample)

(Date)

SUBJECT: Interim Transfer of Completed Construction

Commander
U.S. Army Engineer District, Honolulu
Fort Shafter, HI 96858-5440

1. Reference Contract No. DACA- _____ C- _____, for the construction of _____

2. On this date, a joint acceptance inspection of the completed facilities listed below was held with representatives of your office and the contractor:

<u>Building</u>	<u>Description</u>	<u>Exceptions</u>
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(Complete as appropriate)

3. This letter documents acceptance by the using service of the above-listed facilities except as noted in the "Exceptions" column.

4. Three signed copies of the DD Form 1354 which were provided on this date, will be returned to your representative within ten (10) working days.

(Signed by Using Service)

NOTES: 1. Use of this Interim Transfer of Construction letter is authorized to document interim acceptance of completed facilities by the Using Service pending receipt of signed DD Form 1354.

2. Furnish signed copy to Contracts Branch, CEPOD-CT-C.

APPENDIX B
ACCEPTANCE RECEIPT
(Sample)

(Date)

SUBJECT: Acceptance for Joint Occupancy (Beneficial Occupancy)

Commander
U.S. Army Engineer District, Honolulu
Fort Shafter, HI 96858-5440

1. Reference Contract No. DACA- _____ C- _____, for the construction of _____.

2. On this date, a joint occupancy (beneficial occupancy) inspection of the buildings (facilities) listed below was held with representatives of your office and the Contractor:

<u>Building</u>	<u>Description</u>	<u>Exceptions</u>
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(Complete as appropriate)

3. This acceptance is to be considered as relieving the Contracting Officer of further responsibility for the above-listed buildings (facilities) except for completion of the unfinished items listed in the "Exceptions" column.

(Signed by Using Service)

NOTES: 1. An acceptance receipt is authorized to document joint or beneficial occupancy only. DD Form 1354 and related documents shall be used to document final acceptance inspection of completed facilities.

2. Furnish signed copy to Contracts Branch, CEPOD-CT-C.

APPENDIX C
PREPARATION INSTRUCTIONS - DD FORM 1354

1. Item 5. Date DD Form 1354 is prepared.
2. Item 6. Job and directive number.
3. Item 7. Fiscal year serial number.
4. Item 8. Contract number and transfer number (partial or final).
5. Item 15. Enter "X" in appropriate box of block "A" to indicate whether transfer involves new construction, existing facilities or capital improvements to existing facilities. If "Other" category is used, explain transaction in "Remarks", Item 31. Additionally, in case of new construction, enter "X" in appropriate box of block "B" to indicate whether transaction is being made at time of beneficial occupancy, physical completion, or financial completion. If "Other" box is used, explain transaction in "Remarks", Item 31.
6. Item 16. Code number, keyed to fiscal year, assigned to identify project and public law authorizing the work.
7. Item 17. Line item number. (This number and the data for paragraphs 8, 9, 11 and 12 below, are shown on ENG Form 2900, RCS DAEN-MCC-23.) If entire line item is transferred at one time, show "Entire" below the line item number. If line item is transferred in increments, show "Part" for each partial transfer, and "Final Part" when the last increment is transferred.
8. Item 18. Category code number - ENG Form 2900. See paragraph 19 below for subsequent entries.
9. Item 19. Project description - ENG Form 2900. See paragraph 19 below for subsequent entries.
10. Item 20. Number of units in terms of buildings or other structures. See paragraph 19 below for subsequent entries.
11. Item 21. Type of construction - ENG Form 2900 ("P" for permanent, "S" for semipermanent or "T" for temporary). See paragraph 19 below for subsequent entries.
12. Item 22. Unit of measure abbreviation - ENG Form 2900. See paragraph 19 below for subsequent entries.
13. Item 23. Total quantity of each unit of measure entered under Item 22. See paragraph 19 below for subsequent entries.
14. Item 24. Enter the estimated cost for line item. At time of final acceptance this cost is preliminary and will be so identified with the alphabetical suffix (p). See paragraph 19 below for subsequent entries.
 - a. The estimated cost for the entire line item is shown in the current working estimate and includes both the engineering and construction working estimates. If entire line item is not transferred at one time, it will be necessary to estimate the cost applicable to each partial transfer.

b. If the transfer includes Installed Building Equipment or Equipment in Place (Appendix D), the cost thereof will be entered and explained in "Remarks", Item 26.

15. Item 25. District file number. See paragraph 19 below for subsequent entries.

16. Item 26. Location of construction and other data required for using service operating or account purposes. Include in-place facilities and supporting utilities, if any, which were removed under the contract. See paragraph 19 below for subsequent entries.

17. Item 30. Enter construction and design deficiencies, if any.

a. List construction deficiencies with a statement indicating the time limit for correction and that they will be corrected as an integral part of the contract.

b. List design deficiencies or other changes outside the scope of the contract, desired to be listed by the using service or the operating agency commander, with a statement explaining that corrective action may be made a subject of separate correspondence by the command. (AR 415-10 and AR 415-11/AFR 88-3)

18. Item 31.

a. Enter statement of estimated construction costs.

b. Enter a brief description of the warranty provisions of the contract. Unused space on reverse side of the DD Form 1354 may be used for these entries. If space is insufficient, the warranty of construction data may be furnished as a separate enclosure to this form. The description will include:

(1) The beginning date of the warranty based on joint or beneficial occupancy or final acceptance, whichever is earlier. Normally, the warranty shall continue for a one-year period. However, the area/resident engineer must check the contract technical provisions to determine whether certain items, such as water heaters, have a longer warranty period.

(2) The name of the prime contractor with complete address and telephone number; and the names, addresses and telephone numbers of all subcontractors and equipment suppliers or manufacturers specifically designated in writing by the prime contractor for direct contact in case of failure or defect in the work.

19. Below the heading entry in Items 18 through 26, enter appropriate data for each real property element included in the transfer. The cost data (item 24) will be estimated for each element.

a. For Army construction, the data is essentially the same as that required to be shown on DA Form 2877. The category codes, descriptions and units of measure (items 18, 19 and 22) are contained in AR 415-28. (Paragraph 7b(b)1 of this PODR)

b. For Air Force, Navy and Marine Corps construction, the data is essentially the same as that required to be shown on DA Form 2877. The category codes, descriptions and units of measure (items 18, 19, 22) are contained in AFM 300-4 (Volume IV, Part II, Section ADE RE-008) and NAVFAC Publication P-72, respectively.

APPENDIX D

PREPARATION INSTRUCTION - DD FORM 1149
(INSTALLED BUILDING EQUIPMENT LIST & EQUIPMENT IN PLACE LIST)

1. Under Army regulations, there are two categories of equipment:
 - a. Installed Building Equipment. Items of equipment and furnishings required to make the facility usable and affixed as a permanent part of the structure. These items include plumbing fixtures and equipment; fixed heating, ventilating, cooling, air conditioning, electrical and fire protection systems; water heaters and similar fixed equipment. The regulations do not require Army using services to maintain item accountability for such equipment; therefore, most Army using services do not require this list.
 - b. Equipment in Place. Items of a movable nature fixed in place or attached to facilities, which may be severed or removed without destroying the usefulness of the structure. These items include kitchen, mess and bakery equipment; wall lockers; portable air compressors; portable generator sets; battery chargers and similar movable equipment.
2. In view of the different ways using services classify and account for installed building equipment and equipment in place, the area/resident engineer will ascertain using service requirements for each transfer. The lists will be prepared on DD form 1149 (Shipping Document) and will list only those items required to be listed by the using service.
 - a. Prepare separate lists for installed building equipment and equipment in place.
 - b. If Government-furnished and contractor-furnished equipment are included on the same list, identify the Government-furnished equipment with an asterisk.
 - c. Show locations of equipment in place.
 - d. Show cost of installed building equipment and equipment in place. The cost of Government-furnished equipment is available in the property administrator's records. The cost for contractor-furnished equipment will be estimated by the area/resident engineer.

27 February 1989

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APPENDIX E
TRANSMITTAL MEMORANDUM
(FORMAT)

CEPOD-CO-CE (Marks Number)

(Date)

MEMORANDUM FOR COMMANDER, U.S. ARMY SUPPORT COMMAND, HAWAII
ATTN: APZV-FE, FORT SHAFTER, HI 96858-5440

SUBJECT: Transfer of Construction

1. The enclosed transfer documents are for your records. These documents cover the first (second, final, etc.) increment of construction completed under provisions of Contract No. DACA _____-C-_____, for construction of _____.

2. The completed facilities were accepted by your representatives at the joint acceptance inspection conducted this date.

(If there are construction deficiencies, add the following paragraph.)

3. The construction deficiencies listed on the reverse side of the DD Form 1354, Transfer and Acceptance of Military Real Property, were determined by mutual agreement with your representatives. These deficiencies will be corrected not later than _____ as an integral part of the contract.

(date)

FOR THE COMMANDER:

8 Encl

1. DD Fm 1354
2. DA Fm 2877, Bldgs (14 ea)
3. DA Fm 2877, Misc Structures
4. DA Fm 2877, Surfaced Areas (2 ea)
5. DA Fm 2877, Utility Distr Sys (6 ea)
6. DD Fm 1149, Equip in Place List (2 cy)
7. Notice of Implementation-Warranty of Const Clause, PODCO ltr 20 Jan 75
8. Test Results, Elec Sys

(Resident Engineer)

NOTE: Furnish signed copy to Contracts Branch, CEPOD-CT-C, with enclosures designated in paragraph 7b(2) of this PODR.