

CHAPTER 7

**REPROGRAMMING OF MILITARY CONSTRUCTION
AND FAMILY HOUSING APPROPRIATED FUNDS**0701 GENERAL

This chapter provides guidance for the preparation of reprogramming proposals for the appropriation of military construction and family housing funds.

0702 SUBMISSION REQUIREMENTS

The congressional subcommittees concerned with the appropriation and authorization of military construction and family housing funds have agreed that, in executing approved programs, some flexibility is required in adjusting approved funding levels to comply with new conditions and to effectively plan programs to support assigned missions. Departmental adjustments or reprogramming measures may be required for a number of reasons including: responding to emergencies; restoring or replacing damaged or destroyed facilities; accommodating unexpected price increases; and implementing specific program provisions provided for by the congressional committees. While supporting DoD Component mission accomplishments reprogramming measures are intended to ensure that the use of DoD appropriations complies with congressional intent.

0703 PROCEDURES

070301. DoD Approvals. Proposed military construction and family housing Reprogramming actions shall be approved by the USD (C) before submission to the appropriate congressional committees for approval or for notification. Certain Reprogramming actions below threshold may be executed on approval of designated officials at the DoD Component level (see subparagraph 070302.B.3, below). Generally, the OUSD(C) shall not approve Reprogramming actions until compliance with the criteria delineated below has been fully documented by the DoD Components. When the House National Security and Senate Armed Services Committees are to be notified in accordance with Title 10, United States Code, the DoD Component shall be provided a copy of the associated Reprogramming action transmittal so that all committees and DoD Components may be notified concurrently.

070302. Determining Reprogramming Actions Requiring Prior Notification and Approval of Congressional Committees. The following definitions, procedures, and criteria shall apply.

A. Reprogramming Base. The specific dollar amount for any project or effort that has been jointly approved for appropriation by the Committees on Appropriations.

B. When Prior Approval Reprogramming is Required. Prior approval Reprogramming is required for the following:

1. For any increase exceeding 25 percent of the Reprogramming base or \$2.0 million, whichever is less, to military construction projects, family housing new construction projects, or family housing improvement projects (exceeding \$2.0 million base value).
2. For any increase, regardless of percentage or dollar value, to a project or effort whose base has been increased by a previously approved congressional Reprogramming action.
3. For any increase, regardless of percentage or dollar amount, to a project whose base has been decreased by a previously approved congressional Reprogramming action.
4. For any increase, regardless of percentage or dollar value, to a project that has been previously reduced in scope by the Congress in acting on the appropriation request.
5. For any emergency construction project to be performed under 10 U.S.C. 2803.
6. For any restoration or replacement of damaged or destroyed facilities to be undertaken with military construction funds under 10 U.S.C. 2854.
7. For any acquisition of interests in land under 10 U.S.C. 2672a.
8. For any family housing relocation project to be accomplished under 10 U.S.C. 2827.
9. For any project authorized to be accomplished from savings, unless specifically exempted from such requirement by the Committees on Appropriations.
10. For any Reserve Component major construction project, regardless of amount, that was not among those justified to and approved by the Congress, or for an increase to an approved project that exceeds 25 percent of the Reprogramming base, or \$2.0 million, whichever is less.
11. To increase the amount appropriated for unspecified minor construction.
12. To increase the amount appropriated for architectural and engineering services and construction design.
13. For any Base Realignment and Closure projects.

C. When Prior Approval Reprogramming is Not Required. Prior approval Reprogramming is not required for the following:

1. When none of the criteria listed above, apply to the project or to the cost increase required.
2. For projects utilizing Environmental Restoration, Defense funds authorized under 10 U.S.C. 2810.”
3. For projects less than \$2.0 million within the Family Housing Improvements Program.
4. For decreases to a project or effort in response to “general reductions” imposed by the Congress for savings or other reasons.
5. When a DoD Component takes action to reprogram funds between or among family housing operations and maintenance accounts. However, the committees shall be notified within 30 days of any transfer (cumulative within a fiscal year) that exceeds 10 percent of the reprogramming base of the increased account.
6. When the cost increase necessitating a Reprogramming is due solely to final settlement of a contractor’s claim (Senate Report 100-200).
7. For any project being completed with expired funds. Cost increases are only allowable for valid upward price adjustments, which exclude any work not in the scope of the original contract (Senate Report 100-200).
8. For Reserve Component projects when the revised cost does not exceed \$400,000. Reprogramming action may be taken 21 days after the appropriate committees receive notification and do not object (Senate Report 100-200).

070303. When Reprogrammings Shall Not Be Submitted. Requests for Reprogrammings shall not be submitted by DoD Components when any of the following conditions exist.

- A. For any project or effort that has not been authorized, with the following exceptions:
 1. Projects constructed under 10 U.S.C., sections 2803, 2854, 2672a, or 2827.
 2. Reserve Component projects that receive “lump-sum” authorization.

B. For any project or effort that, for any reason, has been denied specifically by the Congress, as indicated by report language or by the elimination of funds, unless all pertinent report language specifically states that a subsequent reprogramming shall be required or entertained, or when the requirement qualifies as an emergency, as defined in 10 U.S.C. 2803.

C. To initiate programs of major scope or base realignment actions, when such larger efforts have not been authorized by the Congress.

070304. Split-Year Funding Authority. As provided for by Conference Report 100-912, the committees have agreed to allow split-year funding for military construction and family housing construction projects. Split-year funding occurs when a project is financed by funds from more than one program year (appropriation). Resources made available for split-year funding shall remain in the original appropriation for fund control and accounting purposes. Projects that have been funded in phases by the Congress are not considered split-year funded.

070305. Appeals to Congressional Committees. An unfavorable congressional committee decision on a Reprogramming action may be appealed by the OUSD(C). Any appeal on a Reprogramming action taken after it is submitted to the congressional committees is subject to the same review and approval procedures as the original Reprogramming.

070306. Explanatory Statements. Each proposed Reprogramming action shall be fully justified and documented using the guidance in paragraph 0704, below. The required format should be closely followed to prevent unnecessary delays in processing.

070307. Administrative Processing Instructions

A. Reprogrammings normally shall be forwarded monthly to the Appropriation Committees. If exceptions to this monthly processing schedule are required, such as year-end Reprogrammings, the DoD Components shall be notified separately. DoD Component Reprogramming points of contact are responsible for ensuring that all required documentation has been provided to the OUSD(C), Military Construction Directorate, Room 3D841, Pentagon, Washington, DC 20301-1100, by the 10th day of the month. If the 10th falls on a weekend or holiday, the due date automatically is the next workday.

B. Urgent Reprogramming requests warranting that action in advance of the next regular cycle shall be evaluated and processed on a case-by-case basis. However, such out-of-cycle requests are expected to be extremely rare and in no case shall correctable situations, such as approaching bid expiration dates, be used to request out-of-cycle processing.

C. The documentation required by the 10th of the month consists of the following:

1. A transmittal memorandum signed by an appropriate DoD Component official. This memorandum must state specifically that the Reprogramming either does or does not require a cost variation notification in accordance with 10 U.S.C. 2853. If the

Reprogramming requires a section 2853 notification, an updated copy of the notification also should be included in the required documentation, but should not be transmitted to the Congress by the DoD Component until the Reprogramming request is transmitted. The Reprogramming shall be provided in 12-pitch typeface and letter-quality format.

2. Two (2) copies of the Reprogramming request are necessary. The following information is required when developing the 2 copies of the Reprogramming request. The top page(s) should be the Reprogramming request (installation, project, authorization, et al.) (see paragraph 0704, below). Supplementary narrative information, if required, should be attached next. A DD Form 1391, FY 19XX "Military Construction Project Data," is required if committees are seeing this project for the first time. Generally, this shall be restricted to situations in which the Military Service Secretary is exercising the emergency provisions of 10 U.S.C. 2803; the DoD Component is citing section 2854 to replace a damaged or destroyed facility; a project is being funded from savings; or a project has been added by the Congress without the benefit of official records reflecting the scope of the project involved (i.e., without a DD Form 1391). Each of the required 2 copies should be assembled and individually stapled.

0704 REPROGRAMMING REQUEST FORMAT

Bid Expiration Date:

Military Construction, (Enter DoD Component)

Reprogramming Request

Installation. Enter installation or base name, and location, consistent with data in the Construction Annex, C-1.

Project. Enter project or program title consistent with data in the C-1 Annex, if project or program is in the funded program.

Authorization. Show the fiscal year and public law that authorized the project or program or the appropriate sections of Title 10, United States Code for emergency or replacement projects. For Reserve component projects being accomplished under lump-sum authority, cite 10 U.S.C. 2233a(a)(1).

Estimated Cost:

Previously Appropriated \$

Previously Reprogrammed \$

Requested Reprogramming \$

Total Estimated Costs \$

Description. Give a brief description of the project and requirement.

Justification. Be clear and complete in describing the need for the Reprogramming. If appropriate, summarize the chronology of events leading to the request.

Source of Funds. Explain why the funds are no longer required for the purpose originally appropriated. With the exception of BRAC, funds may not be “borrowed” from a project temporarily, with the intention of later restoring a portion of the amount reprogrammed.

	<u>Fiscal</u> <u>Year</u>	<u>Amount</u> <u>Appropriated</u> <u>(\$000)</u>	<u>Current Working</u> <u>Estimate</u> <u>(\$000)</u>	<u>Proposed</u> <u>Reprogramming</u> <u>(\$000)</u>
Location & Project				